

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

LARRY DALE BROWN, #221622,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:12-CV-544-MHT
)	[WO]
)	
KENNETH JONES, et al.,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

I. INTRODUCTION

This 42 U.S.C. § 1983 action is before the court on a complaint filed by Larry Dale Brown [“Brown”], a state inmate, in which he presents claims arising during his incarceration at the Bullock Correctional Center against warden Kenneth Jones, Lt. C. Carlton, Lt. Ruffin, Sgt. Dominic Whitley and Capt. Sylvester Nettles. Specifically, Brown asserts that on February 12, 2012, the defendants acted with deliberate indifference to his safety by failing to protect him from attack by another inmate. *Complaint - Doc. No. 1* at 3 (“Defendants refused to take reasonable measure to protect plaintiff from harm after he notified the officials threats had been made. By [their] refusing plaintiff placement into protective custody he was assaulted by another inmate resulting in black eye and busted lip.”). Brown also alleges that the defendants’ inaction was the result of discrimination due to his Caucasian race. *Id.* Brown seeks monetary damages for the alleged violation of his

constitutional rights. *Id.* at 4.

On September 27, 2012, the defendants filed a motion to dismiss in which they argue that this case is subject to dismissal in accordance with “the doctrine of res judicata,” as the instant complaint contains claims presented or which could have been presented to the Circuit Court of Montgomery County, Alabama in a prior civil case “dismissed [by the state court] ... with prejudice.” *Motion to Dismiss - Doc. No. 15* at 2-3.¹ Based on the argument presented in the motion to dismiss, the court entered an order “that on or before October 9, 2012 the plaintiff shall show cause why this motion should not be granted.” *Order of September 28, 2012 - Doc. No. 16*. In this order, the court “cautioned the plaintiff that if he fails to file a response to this order the court will enter a Recommendation that his case be dismissed based on *res judicata*....” *Id.* As of the present date, the plaintiff has filed no response to this order.

Upon review of the defendants’ motion to dismiss, the undisputed evidentiary materials filed in support thereof and applicable federal law, the court concludes that the defendants’ motion to dismiss is due to be granted.

II. DISCUSSION AND ANALYSIS - RES JUDICATA

The defendants maintain that this case is subject to dismissal as the plaintiff’s claims are precluded by res judicata arising from the dismissal of Brown’s state action, *Brown v.*

¹The state civil action, *Brown v. Jones, et al.*, Case No. CV-12-668-J-A, raised the identical claim regarding the defendants alleged failure to protect Brown from attack by another inmate. *Defendants’ Exhibit A - Doc. No. 15-1* at 3-7. Brown, however, did not make the allegation that this failure was the result of racial discrimination. *Id.* The racial discrimination claim clearly arises out of the same cause of action and could have been raised by Brown in his state complaint. On August 22, 2012, the Circuit Court of Montgomery, Alabama issued an order that the plaintiff’s complaint be dismissed with prejudice. *Defendants’ Exhibit D - Doc. No. 15-4*.

Jones, et al., Case No. CV-12-668-J-A, by the Circuit Court of Montgomery County.

The preclusive effect of a judgment is defined by claim preclusion and issue preclusion, which are collectively referred to as “res judicata.” Under the doctrine of claim preclusion, a final judgment forecloses “successive litigation of the very same claim, whether or not relitigation of the claim raises the same issues as the earlier suit.” *New Hampshire v. Maine*, 532 U.S. 742, 748, 121 S.Ct. 1808, 149 L.Ed.2d 968 (2001). Issue preclusion, in contrast, bars “successive litigation of an issue of fact or law actually litigated and resolved in a valid court determination essential to the prior judgment,” even if the issue recurs in the context of a different claim. *Id.*, at 748-749, 121 S.Ct. 1808. By “preclud[ing] parties from contesting matters that they have had a full and fair opportunity to litigate,” these two doctrines protect against “the expense and vexation attending multiple lawsuits, conserv[e] judicial resources, and foste[r] reliance on judicial action by minimizing the possibility of inconsistent decisions.” *Montana v. United States*, 440 U.S. 147, 153-154, 99 S.Ct. 970, 59 L.Ed.2d 210 (1979).

Taylor v. Sturgell, 553 U.S. 880, 892, 128 S.Ct. 2161, 2171 (2008)

“Our res judicata analysis has always required a consideration of the facts and legal theories of two causes of action as well as the rights and duties involved in each case.”

Draper v. Atlanta Indep. Sch. Sys., 377 Fed. Appx. 937, 940 (11th Cir. 2010) *certiorari denied*, 131 S.Ct. 342, 178 L.Ed. 2d 223, 79 USLW 3205 (Oct. 4, 2010) (citing *Manning v. City of Auburn*, 953 F.2d 1355, 1359 (11th Cir. 1992)). “We have consistently concluded that when the substance and facts of each action are the same, res judicata bars the second suit.” *Id.* In *I.A. Durbin, Inc. v. Jefferson National Bank*, 793 F.2d 1541 (11th Cir. 1986), the Court summarized the doctrine of res judicata as follows:

Res judicata or claim preclusion refers to the preclusive effect of a judgment in foreclosing relitigation of matters that were litigated or could have been

litigated in an earlier suit.... In order for the doctrine of res judicata to bar a subsequent suit, four elements must be present: (1) there must be a final judgment on the merits; (2) the decision must be rendered by a court of competent jurisdiction; (3) the parties, or those in privity with them, must be identical in both suits; and (4) the same cause of action must be involved in both cases.

I.A. Durbin, 793 F.2d at 1549 (citations omitted). It is to these four elements that the court now turns.

1. **A Final Judgment**. In June of 2012, Brown filed suit against Jones, Carlton, Ruffin and Whitley in the Circuit Court of Montgomery County, Alabama. *Defendants' Exhibit A - Doc. No 15-1* (Complaint in the case of *Brown v. Jones, et al.*, Case No. CV-12-668-J-A). In that case, Brown alleged that correctional officials at Bullock Correctional Facility failed to protect him from attack by a fellow inmate when they refused his request for placement in protective custody. *Id.* The facts made the basis of the state civil action are identical to the facts presented to this court in support of the instant complaint. On August 6, 2012, the defendants filed a motion to dismiss the complaint pending before the state court in which they argued that the plaintiff's claims provided no basis for relief. *Defendants' Exhibit C - Doc. No. 15-3* at 1-4. On August 22, 2012, the Circuit Court of Montgomery County, Alabama granted the defendants' motion to dismiss and "**ORDERED** that all claims in this cause are hereby **DISMISSED WITH PREJUDICE.**" *Defendants' Exhibit D - Doc. No. 15-4.*

This court must first determine whether the state court's decision on the defendants'

motion to dismiss is a decision on the merits.

“A judgment is on the merits when it amounts to a decision as to the respective rights and liabilities of the parties, based on the ultimate fact or state of the parties disclosed by the pleadings or evidence, or both, and on which the right of recovery depends, irrespective of formal, technical, or dilatory objections or contentions. Key factors in determining whether a judgment may be considered as on the merits are that there have been notice and an opportunity to be heard....

“It is not necessary, however, that there should have been a trial. If the judgment is general, and not based on any technical defect or objection, and the parties had a full legal opportunity to be heard on their respective claims and contentions, it is on the merits, *although there was no actual hearing on the facts of the case.*”

Mars Hill Baptist Church of Anniston, Ala., Inc. v. Mars Hill Missionary Baptist Church, 761 So.2d 975 (Ala. 2000); *Bd. of Tr. of the Univ. of Ala. v. Am. Res. Ins. Co., Inc.*, 5 So.3d 521, 533 (Ala. 2008) (same). After reviewing all of the pleadings, including evidence contained therein, the state court granted the defendants’ motion to dismiss and dismissed the case with prejudice. Thus, it is clear that the state court’s dismissal of the plaintiff’s case constituted a final judgment on the merits. *See Alpha Life Insurance Corp. v. Jackson*, 906 so.2d 143, 155 (Ala. 2005) (citing *Hammermill Paper Co. v. Day*, 336 So.2d 166, 168 (Ala. 1976) (dismissal with prejudice represents an adjudication on the merits).

2. Court of Competent Jurisdiction. The Circuit Court of Montgomery County, Alabama is a court of competent jurisdiction. Pursuant to ALA. CODE 1975 § 12-11-30(1), circuit courts in Alabama “shall have exclusive original jurisdiction of all civil actions in

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.