

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JAN 23 2025

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

REINA TEA WOOD-JIMENEZ,

Petitioner - Appellant,

v.

NEVADA DEPARTMENT OF MOTOR
VEHICLE OFFICE,

Respondent - Appellee.

No. 24-6358

D.C. No.

3:23-cv-00583-MMD-CLB

District of Nevada,

Reno

ORDER

Before: PAEZ, BYBEE, and MILLER, Circuit Judges.

Upon a review of the record and the response to the court's October 25, 2024 order, we conclude this appeal is frivolous. We therefore deny appellant's motion to proceed in forma pauperis (Docket Entry No. 3), *see* 28 U.S.C. § 1915(a), and dismiss this appeal as frivolous, pursuant to 28 U.S.C. § 1915(e)(2) (court shall dismiss case at any time, if court determines it is frivolous or malicious).

All other pending motions are denied as moot.

No further filings will be entertained in this closed case.

DISMISSED.

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

REINA WOOD-JIMENEZ,

Plaintiff,

v.

DEPARTMENT OF MOTOR VEHICLES,

Defendant.

Case No. 3:23-cv-00583-MMD-CLB

ORDER

I. SUMMARY

Pro se Plaintiff Reina Wood-Jimenez filed a complaint alleging violations of her civil rights under 42 U.S.C. § 1983. (ECF No. 1.)¹ Before the Court is Defendant Department of Motor Vehicles (“DMV”)’s motion to dismiss. (ECF No. 52 (“Motion”).)² The Court grants Defendant’s Motion because claim preclusion prevents Plaintiff from bringing the same case for a second time.

II. BACKGROUND

Plaintiff is a former resident of Nevada who the Second Judicial District Court of the State of Nevada found guilty of Driving Under the Influence (“DUI”) in 2012. (ECF No. 1-1 at 42.) The court sentenced Plaintiff to imprisonment in the Nevada Department of Corrections and, upon her release, a three-year driver’s license revocation period. (*Id.* at 43.) The state court also ordered her to install a breath interlock device on

¹This case was originally filed in the United States District for the District of Columbia and then transferred to this Court because venue was improper. (ECF No. 6.) Plaintiff now lives in Washington D.C.

²The Court reviewed Plaintiff Reina Wood-Jimenez’s response (ECF No. 56) and Defendant’s reply (ECF No. 63). The Court also reviewed Plaintiff’s Emergency Motion for Default Judgment (ECF. No. 71) and determined that it did not warrant emergency action because Plaintiff did not articulate any justification for immediate relief in it, and because Defendant has made an appearance.

1 any vehicle she owned or operated as a condition of obtaining a restricted driver's license
2 and reinstating her driving privilege. (*Id.*) The state court imposed the breath interlock
3 device requirement for a period of no less than 12 months and no more than 36 months.
4 (*Id.*) Plaintiff requested an administrative hearing to appeal the interlock requirement.
5 (*Id.* at 32.) The court denied her claim because it did not have the authority to remove the
6 statutorily-mandated requirement of the instillation of a breath interlock device in an
7 offenders' car following a DUI conviction. (*Id.* at 35-36.)

8 In 2018, Plaintiff received a license from the DMV despite her not fulfilling the
9 breath interlock device condition. (ECF No. 1 at 7.) This license listed Plaintiff's name
10 incorrectly as Reina Tea Wood Jimenez rather than Reina Tea Wood-Jimenez.
11 (ECF No. 1-1 at 22.) This version of her name differs from her other forms of identification.
12 (ECF No. 1 at 5.) Plaintiff made several unsuccessful attempts with the DMV to correct
13 her last name. (*Id.* at 7.) Less than a month after receiving her license, two police officers
14 pulled over Plaintiff and informed her that the DMV canceled her issued license because
15 she had not installed the breath interlock device. (*Id.*)

16 Plaintiff previously filed another lawsuit in federal court against the DMV alleging
17 the same facts presented here, namely that she should not have to install the breath
18 interlock device and that her name is incorrect in DMV records. See Complaint, Reina
19 Wood-Jimenez v. DMV, No. 2:18-cv-02344 ("First Case") (D. Nev. July 1, 2019), ECF No.
20 15. The DMV moved to dismiss. See *id.*, ECF No. 20. The court granted the motion
21 because Plaintiff did not properly serve the DMV, the DMV was immune from suit under
22 the Eleventh Amendment, and because Plaintiff failed to state a claim that her
23 constitutional rights were violated. See *id.*, ECF No. 45. Plaintiff appealed; the United
24 States Court of Appeals for the Ninth Circuit dismissed for lack of jurisdiction and denied
25 Plaintiff's subsequent motion for reconsideration. See *id.*, ECF Nos. 54, 55.

26 Plaintiff now sues the DMV again and lists the same allegations from her previously
27 dismissed suit. (ECF No. 1.) Plaintiff requests monetary damages, an injunction "to stop
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1 the improper conduct,” an order stating that the breath interlock device is not required,
2 and release of liability of new charges for driving on a canceled license. (*Id.* at 10.)

3 III. DISCUSSION

4 Claim preclusion prohibits litigation of the same issue of fact or law more than
5 once. See *Robi v. Five Platters, Inc.*, 838 F.2d 318, 321 (9th Cir. 1988). When a lawsuit
6 is decided, the judgment is the full measure of relief allowed between the same parties
7 on the same claim. See *id.* For claim preclusion to apply, there must be: 1) an identity of
8 claims; 2) a final judgment on the merits in the first action; and 3) identity or privity
9 between the parties. See *Frank v. United Airlines, Inc.*, 216 F.3d 845, 850 (9th Cir. 2000).
10 Claim preclusion cannot be avoided by filing the same case in a different court.
11 Cf. *Perugini v. Safeway Stores, Inc.*, 933 F.2d 1015, 1015 (9th Cir. 1991) (“[Plaintiff]
12 cannot circumvent the [claim preclusion] effect of the federal judgment entered against
13 her in the Northern District of California by refiling the same claims in state court.”). An
14 identity of claims between the first and second lawsuit exists when the two suits arise out
15 of the “same transactional nucleus of facts.” *Costantini v. Trans World Airlines*, 681 F.2d
16 1199, 1201-02 (9th Cir. 1982) (citation omitted).

17 Plaintiff’s claims in this case arise from the same transactional nucleus of facts as
18 her previous suit: she is suing the DMV because she does not want to install the breath
19 interlock device and her name is incorrect in the DMV’s records. (ECF No. 1). See also
20 First Case, ECF No. 15. Her complaint in this case does not articulate how this claim
21 differs from her 2019 suit. (ECF No. 1.) The first claim preclusion requirement is
22 accordingly satisfied. In addition, the court in the prior case found that her arguments
23 lacked merit. See First Case, ECF No. 45. This means the second claim preclusion
24 requirement is also satisfied. See *Frank*, 216 F.3d at 850 (listing the second requirement
25 as a final judgment on the merits). The third claim preclusion requirement is also satisfied
26 because the parties are the same as the previous case. See *id.* (listing the third
27 requirement as well).

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1 It makes no difference that Plaintiff filed the first lawsuit in the District of Nevada
2 and this lawsuit in the District of District of Columbia; her claim is precluded because she
3 already received a final judgment on the merits in a prior case based on the same facts.

4 Moreover, as Defendant points out, Plaintiff's suit would still fail because it would
5 violate the Eleventh Amendment even if claim preclusion does not apply. (ECF No. 52 at
6 4.) The Eleventh Amendment prevents citizens from suing a state. See U.S. CONST.
7 AMEND. XI. A state may only be sued in federal court if it has waived its Eleventh
8 Amendment immunity, and Nevada has not waived immunity. See *Alabama v. Pugh*, 438
9 U.S. 781, 782 (1978); NRS § 41.031(3) (1977). This immunity from lawsuits extends to
10 state agencies. See *Eaglesmith v. Ward*, 73 F.3d 857, 859-60 (9th Cir. 1995), as
11 amended (Jan. 23, 1996). The DMV is a state agency and thus cannot be sued. See
12 *Linlor v. Breslow*, No. 3:11-CV-0508-LRH-RAM, 2011 WL 6400377, at *1 (D. Nev. Dec.
13 20, 2011). Therefore, Plaintiff's complaint could not proceed even if it was not precluded
14 because she names only the DMV as a defendant, and it is immune from suit.³

15 **IV. CONCLUSION**

16 The Court notes that the parties made several arguments and cited several cases
17 not discussed above. The Court reviewed these arguments and cases and determines
18 that they do not warrant discussion as they do not affect the outcome of the motion before
19 the Court.

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27 ³In addition, Plaintiff did not set forth a legitimate claim that any of her constitutional
28 rights were violated from the revocation of her license. See *Williams v. Gentry*, No.
204CV01620KJDEJY, 2020 WL 3302971, at *28 (D. Nev. June 18, 2020) (holding that
there is no constitutional right to drive because driving is privilege, not a right).

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It is therefore ordered that Defendant's motion to dismiss (ECF No. 52) is granted.

It is further ordered that Plaintiff's emergency motion for default judgment (ECF No. 71) is denied.

It is further ordered that this case is dismissed in its entirety.

The Clerk of Court is directed to enter judgment accordingly and close this case.

DATED THIS 18th Day of September 2024.



MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE