

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz.R.Sup.Ct. 111(c); ARCAP 28(c);
Ariz.R.Crim.P. 31.24



DIVISION ONE
FILED: 06/19/2012
RUTH A. WILLINGHAM,
CLERK
BY: sls

**IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE**

Steven Campise,) 1 CA-CV 11-0501
)
Plaintiff/Appellant,)
)
v.) DEPARTMENT B
)
VHS Acquisition Corp. dba West) **MEMORANDUM DECISION**
Valley Hospital, and Abrazo) (Not for Publication -
Healthcare facility; VHS of) Rule 28, Arizona Rules
Phoenix, Inc. dba Phoenix Baptist) of Civil Appellate
Hospital, an Abrazo Healthcare) Procedure)
facility; Vanguard Health)
Management,)
)
Defendants/Appellees.)
)

Appeal from the Superior Court in Maricopa County

Cause No. CV2010-070238

The Honorable Larry Grant, Judge

AFFIRMED

Steven Campise
Pro-se Litigant

Goodyear

Coppersmith Schermer & Brockelman PLC
By
Kent Brockelman
Roopali H. Desai
Attorneys for Defendant/Appellee

Phoenix

T H U M M A, Judge

¶1 Steven Campise ("Campise") appeals from the superior court's dismissal of his complaint for failure to state a claim on *res judicata* grounds. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 Campise was an employee at West Valley Hospital until he was terminated in February 2009. Campise alleges that soon after he was terminated, West Valley Hospital filed a report with the Arizona State Board of Nursing, alleging Campise violated rules of professional medical conduct. Campise then filed a complaint in superior court (CV 2009-033662) against West Valley Hospital "whose true name is Hospital Development of West Phoenix"; VHS of Phoenix, Inc.; Vanguard Health Management and others (collectively, "defendants"). Plaintiff's complaint in CV2009-033662 alleged defendants defamed him, improperly terminated his employment and failed to protect patients.

¶3 Defendants filed a motion to dismiss, arguing Campise failed to state a claim upon which relief can be granted, which the superior court granted. Campise filed a notice of appeal, which he then withdrew.

¶4 Campise then filed a second case against "VHS Acquisition Corporation, also known as Hospital Development of West Phoenix, Inc."; VHS of Phoenix, Inc.; Vanguard Health Management and others in superior court (CV 2010-070238),

alleging defendants defamed him and failed to protect patients. Defendants moved to dismiss the second case for failure to state a claim under Rule 12(b)(6), which the superior court granted, finding the second case was barred by *res judicata*.

¶15 Campise timely filed this *pro se* appeal. We have jurisdiction pursuant to Arizona Revised Statutes section 12-2101(B) (Westlaw 2012).¹

DISCUSSION

¶16 Although Campise lists several issues on appeal, he does not argue the superior court erred in dismissing his second case on *res judicata* grounds. Accordingly, Campise waived that issue. See *Schabel v. Deer Valley Unified School Dist. No. 97*, 186 Ariz. 161, 167, 920 P.2d 41, 47 (App. 1996) (“Issues not clearly raised and argued in a party’s appellate brief are waived.”).

¶17 Even if Campise had raised *res judicata* on appeal, the superior court properly dismissed his second case on that ground. *Res judicata* precludes parties from relitigating an issue that has been previously adjudicated. *Chaney Building Co. v. City of Tucson*, 148 Ariz. 571, 573, 716 P.2d 28, 30 (1986). It applies when (1) the issues decided in the prior action are identical to the issues being litigated in the subsequent

¹ Absent material revisions to this decision, we cite the current Westlaw version of applicable statutes.

action, (2) the prior ruling was a judgment on the merits and (3) the parties against whom *res judicata* is asserted were parties to or in privity with a party in the prior action. *Id.* A Rule 12(b)(6) dismissal "disposes of the merits and takes *res judicata* effect." *Gatecliff v. Great Republic Life Ins. Co.*, 154 Ariz. 502, 507, 744 P.2d 29, 34 (App. 1987). *Res judicata* is an issue of law, and we review the trial court's decision *de novo*. *Pettit v. Pettit*, 218 Ariz. 529, 531, ¶ 4, 189 P.3d 1102, 1104 (App. 2008).

¶8 In the second case, Campise alleged a subset of the same claims alleged in his first case and made his allegations against the same defendants in both cases. After affording Campise a full opportunity to litigate his first case, the superior court entered an order dismissing his claims for failure to state a claim. Because the claims and parties in the second case were identical, the superior court correctly dismissed Campise's second case on *res judicata* grounds.²

CONCLUSION

¶9 For the foregoing reasons, we affirm.

² On May 25, 2012, after filing this appeal, Campise filed with this Court a "Notice of Complaint to Arizona Medical Board" and a "Motion for Clarification of A.R.S. 32-1664(D)." The Notice of Complaint requests no judicial action from this Court. To the extent the Motion for Clarification seeks judicial action from this Court, that Motion is denied as moot given this Memorandum Decision affirming the superior court's dismissal.

/s/ _____
Samuel A. Thumma, Judge

CONCURRING:

/s/ _____
Patricia A. Orozco, Presiding Judge

/s/ _____
Jon W. Thompson, Judge