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5  
6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA

8  
9 Carlene Crenshaw-Bruce,  
10 Plaintiff,

No. CV-12-02574-PHX-DGC

**ORDER**

11 v.

12 Mesa Police Department,  
13 Defendant.

14 Defendant Mesa Police Department has filed a motion to dismiss pursuant to  
15 Rule 12(b)(6) of the Federal Rules of Civil Procedure. Doc. 23. The motion is fully  
16 briefed and no party has requested oral argument. For the reasons that follow, the Court  
17 will grant the motion.

18 **I. Background.**

19 Plaintiff was arrested by Mesa Police Department on March 9, 2010 for violating  
20 an order of protection, resisting arrest, and possession of drug paraphernalia. Doc. 7 at 5.  
21 Plaintiff alleges that the arresting officers “committed a misconduct,” “violated [her] civil  
22 rights which involved Excessive Deadly Force with a Selective Enforcement of Conduct  
23 unbecoming for Personal gain towards a malice on [her] life,” and that she was “Bounded  
24 in Handcuffs.” *Id.* at 1-3. She claims in other filings that her “head was excessively  
25 slammed on the concrete,” that one of the officers “deliberately pull[ed] [her] weave  
26 out,” and that her right knee was dislocated. Doc. 26 at 2-3. Plaintiff was found guilty of  
27 resisting arrest, possession or use of dangerous drugs, and interfering with judicial  
28 proceedings on April 29, 2013. Doc. 23 at 6.

1     **II.     Legal Standard.**

2             When analyzing a complaint for failure to state a claim to relief under Rule  
3     12(b)(6), the well-pled factual allegations “are taken as true and construed in the light  
4     most favorable to the nonmoving party.” *Cousins v. Lockyer*, 568 F.3d 1063, 1067 (9th  
5     Cir. 2009) (citation and quotation omitted). Legal conclusions couched as factual  
6     allegations “are not entitled to the assumption of truth,” *Ashcroft v. Iqbal*, 556 U.S. 662,  
7     680 (2009), and therefore “are insufficient to defeat a motion to dismiss for failure to  
8     state a claim,” *In re Cutera Sec. Litig.*, 610 F.3d 1103, 1108 (9th Cir. 2010) (citation  
9     omitted). To avoid a Rule 12(b)(6) dismissal, the complaint must plead “enough facts to  
10    state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S.  
11    544, 570 (2007). This plausibility standard “is not akin to a ‘probability requirement,’  
12    but it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Iqbal*,  
13    556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 556). “[W]here the well-pleaded facts do  
14    not permit the court to infer more than the mere possibility of misconduct, the complaint  
15    has alleged – but it has not ‘show[n]’ – ‘that the pleader is entitled to relief.’” *Id.* at 679  
16    (quoting Fed. R. Civ. P. 8(a)(2)).

17    **III.    Analysis.**

18             **A.     Motion to Dismiss.**

19             Defendant advances several bases for its motion to dismiss, including that  
20    Plaintiff’s claim is barred by res judicata. Doc. 23 at 2. Defendant asserts that Plaintiff  
21    filed a complaint on June 14, 2011 against Defendant in Maricopa County Superior Court  
22    based on events occurring on March 9, 2010. *Id.* at 5. It further asserts that the  
23    complaint was dismissed with prejudice on August 29, 2011. *Id.* Defendant has attached  
24    copies of the Superior Court complaint and the minute entry dismissing the case. *See*  
25    Docs. 23-2, 23-3. In the context of a Rule 12(b)(6) motion to dismiss, the Court may  
26    properly consider matters of public record outside the pleadings without converting the  
27    motion to one for summary judgment. *Mack v. S. Bay Beer Distribs.*, 798 F.2d 1279 (9th  
28    Cir. 1986) (*overruled on other grounds by Astoria Fed. Sav. & Loan Ass’n v. Solimino*,

1 501 U.S. 104 (1991)); *see also Houston v. Ariz. St. Bd. of Educ.*, CV-10-8160-PHX-  
2 GMS, 2012 WL 466474, at \*2 n.3 (D. Ariz. Feb. 14, 2012) (noting that “[a] court may  
3 take judicial notice of ‘matters of public record outside the pleadings’”) (citation  
4 omitted). Accordingly, the Court will take judicial notice of these documents.

5 Plaintiff’s June 14, 2011 complaint alleges that on March 9, 2010, “Officers C.  
6 Colburn #16148 and M. Rome #15866 of the Mesa Police committed police brutality.”  
7 Doc. 23-2 at 2. Plaintiff’s amended complaint alleges that “Officer C. Colburn #16148  
8 and Officer M. Rome #15866 of the Mesa Police Department . . . committed a  
9 misconduct on 3-9-10[.]” Doc. 7 at 1. She further alleges that this misconduct violated  
10 “the Police Departments (sic) rules and regulations of their policy,” “State and Federal  
11 regulated laws,” “civil rights,” “the 5th United States Constitutional Amendment, Due  
12 Process of the law,” “the 10th Amendment of the United States Constitution,”  
13 “[Plaintiff’s] right to privacy (sic) the Arizona Constitutional Amended Article 8,” and  
14 the “cruel and unusual punishment Arizona Constitution Article.” *Id.* at 1-2.

15 Under the doctrine of res judicata, “where claims arise from the same factual  
16 circumstances, a plaintiff must bring all related claims together or forfeit the opportunity  
17 to bring any omitted claim in a subsequent proceeding.” *Turtle Island Restoration*  
18 *Network v. U.S. Dept. of State*, 673 F.3d 914, 918 (9th Cir. 2012). The complaint in this  
19 case and the 2011 Superior Court complaint arise from the March 9, 2010 actions of  
20 Officers Colburn and Rome. Both allege misconduct by the officers in the arrest of  
21 Plaintiff. Because the 2011 lawsuit was resolved against her, Plaintiff’s claims in this  
22 case are barred by res judicata. The Court will grant Defendant’s motion to dismiss.

23 **B. Other Pending Motions.**

24 Plaintiff has filed a Motion for “Ruling re favorable ruling” (Doc. 21), a Motion to  
25 Amend/Correct her amended complaint (Doc. 24), a Motion to Amend/Correct her  
26 Motion for “Ruling re favorable ruling” (Doc. 26), and another Motion to Amend/Correct  
27 her amended complaint (Doc. 28). The Court will deny the motion for ruling re favorable  
28 ruling and the motion to amend said motion (Docs. 21 and 26) as moot.

