

1 Plaintiff failed to file a second amended complaint. Therefore, on July 27, 2020, the Court
2 issued an order to show cause why the action should not be dismissed for failure to state a cognizable
3 claim for relief, failure to prosecute, and failure to comply with a court order. (ECF No. 17.) After
4 Plaintiff failed to respond to the order to show cause, the Court issued Findings and Recommendations
5 to dismiss the action on August 11, 2020. (ECF No. 18.) Plaintiff filed objections to the Findings and
6 Recommendations. (ECF Nos. 23, 24.) Therefore, on September 22, 2020, the Court vacated the
7 Findings and Recommendations and granted Plaintiff thirty days to file an amended complaint. (ECF
8 No. 25.) Plaintiff again failed to file an amended complaint, and on November 2, 2020, the Court
9 issued an order to show cause why the action should not be dismissed. (ECF No. 26.)

10 On November 19, 2020 and November 23, 2020, Plaintiff filed motions for an extension of
11 time to file an amended complaint. (ECF Nos. 27, 28.)

12 After careful review of the record and for the reasons explained below, the Court finds that the
13 action should be dismissed as barred by *res judicata* and any further amendment would be futile.

14 II.

15 DISCUSSION

16 A. *Res Judicata*

17 “Under the doctrine of claim preclusion, a final judgment forecloses successive litigation of the
18 very same claim, whether or not relitigation of the claim raises the same issues as the earlier suit.”
19 Taylor v. Sturgell, 553 U.S. 880, 892 (2008). Put another way, “[c]laim preclusion bars a party in
20 successive litigation from pursuing claims that were raised or could have been raised in a prior
21 action.” Media Rights Techs., Inc. v. Microsoft Corp., 922 F.3d 1014, 1020 (9th Cir. 2019) (quotation
22 marks and internal alterations omitted). Claim preclusion “applies when the earlier suit (1) involved
23 the same ‘claim’ or cause of action as the later suit, (2) reached a final judgment on the merits, and (3)
24 involved identical parties or privies.” Mpoyo v. Litton Electro-Optical Sys., 430 F.3d 985, 987 (9th
25 Cir. 2005) (internal alterations and quotation marks omitted); see also Howard v. City of Coos Bay,
26 871 F.3d 1032, 1039 (“Claim preclusion requires ‘(1) an identity of claims, (2) a final judgment on the
27 merits, and (3) privity between parties.’ ”).

1 1. Prior Action: 1:18-cv-01237-DAD-SAB (PC) (E.D. Cal.)
2 Roberts v. Huckleberry, et al., Case No. 1:18-cv-01227-DAD-SAB (PC) (E.D. Cal.) (“Roberts
3 I”) was filed on August 17, 2018.¹ In Roberts I, Plaintiff named Stephen Henderson, Huckleberry,
4 Franco and Lascina, as Defendants. (Roberts I, Fifth Am. Compl., ECF No. 33.) In prior amended
5 complaints, Plaintiff also listed identified members of the investigative services unit and medical staff.

6 In his fifth amended complaint Plaintiff alleged as follows: After he told Nurse Nash that he was
7 suicidal at medication call, Correctional Officer Franco told Plaintiff to “take it back up to” Plaintiff’s
8 cell and then “they” forced Plaintiff back up to his cell. Then, he was beaten up by “these officers in
9 handcuffs, for up to [one] hour, in front of his cell.” (ECF No. 33, at 3.) Plaintiff claimed that “all
10 officers” punched and kicked him in the ribs, face, and head, which caused him to suffer broken ribs, a
11 dislocated jaw and cheekbone, broken front teeth, swollen nose, a gash on his forehead, and a busted
12 lip. Plaintiff also suffered bruises on his legs, shoulders, and chest. As relief, Plaintiff requested
13 monetary damages and “to press charges” on all Defendants. (ECF No. 33.)

14 On March 10, 2020, the Court found that Plaintiff failed to state a cognizable claim for relief
15 and dismissed the action without further leave to amend.² (ECF No. 57.) Judgment was entered this
16 same date. (ECF No. 58.)

17 2. Same Claim or Cause of Action

18 First, the Court decides whether Roberts I “involved the same ‘claim’ or cause of action” as the
19 current action. Mpoyo, 430 F.3d at 987. The Court employs four criteria to determine whether claims
20 are identical: “(1) whether rights or interests established in the prior judgment would be destroyed or
21 impaired by prosecution of the second action; (2) whether substantially the same evidence is presented
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24 ¹ Federal Rule of Evidence 201 permits the Court to take judicial notice at any time. A judicially noticed fact must be one
25 not subject to reasonable dispute in that it is either: (1) generally known within the territorial jurisdiction of the trial court;
26 or (2) capable of accurate and ready determination by resort to sources whose accuracy reasonably cannot be questioned.
Fed. R. Evid. 201(b). This Court may judicially notice the records and filing of other court proceedings. Tellabs, Inc. v.
Makor Issues & Rights, Ltd., 551 U.S. 308, 322 (2007); Bennett v. Medtronic, Inc., 285 F.3d 801, 802 n.2 (9th Cir. 2002).
This includes documents filed in state courts. Harris v. Cnty. of Orange, 682 F.3d 1126, 1132 (9th Cir. 2012).

27 ² The Court notes that another case filed by Plaintiff in this Court was dismissed as duplicative of Case No. 1:18-cv-
28 01237-DAD-SAB (PC) on March 7, 2019. See Roberts v. Henderson, et al., Case No. 1:19-cv-00091-DAD-EPG (PC),
ECF No. 16).

1 in the two actions; (3) whether the two suits involve infringement of the same right; and (4) whether
2 the two suits arise out of the same transaction nucleus of facts.” Harris v. County of Orange, 682 F.3d
3 1126, 1132 (9th Cir. 2012) (internal quotation marks and citation omitted). “The fourth criterion is the
4 most important.” Id.

5 After careful consideration of both actions, the Court determines that the allegations in this
6 action arise out of the same nucleus of facts and allege infringement of the same rights as those alleged
7 in Roberts I. In both Roberts I and this action, Plaintiff alleges that, Defendants and several officers
8 beat him while handcuffed causing him to suffer broken ribs, broken teeth, busted lip, fractured
9 cheekbone, swollen, nose, gash to forehead, and bruising. In both cases, Plaintiff seeks the same
10 forms of relief, i.e. monetary damages as well as “to press charges” against Defendants. Therefore,
11 the Court determines that the first criteria of claim preclusion is met because Roberts I “involved the
12 same ‘claim’ or cause of action” as the current action. Mpoyo, 430 F.3d at 987.

13 3. Final Judgment on the Merits

14 Second, the Court decides whether Robert I reached a final judgment on the merits. Mpoyo,
15 460 F.3d at 987. As noted above, Roberts I was dismissed without leave to amend for failure to state a
16 cognizable claim for relief. (Roberts I, ECF No. 57.) The Roberts I decision constitutes a final
17 judgment on the merits. See, e.g., Federated Dep't Stores v. Moitie, 452 U.S. 394, 399 n. 3 (1981) (a
18 dismissal for failure to state a claim for relief (there under Rule 12(b)(6), is an “judgment on the
19 merits” to which *res judicata* applies); see also Stewart v. Bancorp, 297 F.3d 953, 957 (9th Cir. 2002);
20 Fed. R. Civ. P. 41(b) (an involuntary dismissal is an adjudication on the merits unless the dismissal
21 states otherwise or was for lack of jurisdiction, improper venue, or failure to join a party under Rule
22 19).³ Therefore, the Court determines that the second element for the application of claim preclusion
23 is met.

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25 ³ Although the dismissal in Roberts I was at the screening stage pursuant to 28 U.S.C. § 1915A, it nonetheless operates as
26 an adjudication on the merits because a “[d]ismissal for failure to state a claim under § 1915A ‘incorporates the familiar
27 standard applied in the context of failure to state a claim under Federal Rule of Civil Procedure 12(b)(6).’ ” Nordstrom v.
28 Ryan, 762 F.3d 903, 908 (9th Cir. 2014) (quoting Wilhelm v. Rotman, 680 F.3d 1113, 1121 (9th Cir. 2012)); see also
Evans v. Beck, No. 1:12-CV-00284-AWI-MJS (PC), 2012 WL 3069571 (E.D. Cal. July 27, 2012) (§ 1983 prisoner action
relying on previous screening dismissal for the assertion that the present claim was previously decided on the merits and
thus barred under *res judicata*).

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Further, it is HEREBY RECOMMENDED that:

1. The instant action be dismissed as barred by *res judicata*; and
2. The Clerk of Court be directed to terminate this action.

This Findings and Recommendation will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14) days** after being served with this Findings and Recommendation, Plaintiff may file written objections with the Court. The document should be captioned “Objections to Magistrate Judge’s Findings and Recommendation.” Plaintiff is advised that failure to file objections within the specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: December 7, 2020



UNITED STATES MAGISTRATE JUDGE