

APPENDIX A

Case: 17-16988 10/04/2018 DktEntry: 9

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CHARLES G. KINNEY
Plaintiff-Appellant,

No. 17-16988

v.

D.C. No. 3:17-cv-01607-JST
Northern Dist. of Cal., San Fran.

TANI G. CANTIL-SAKAUYE; et al.,
Defendants-Appellees.

FILED
OCT 4 2018
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ORDER

Before: SILVERMAN, BEA, and WATFORD,
Circuit Judges.

The panel has voted to deny the petition for
panel rehearing.

The full court has been advised of the
petition for rehearing en banc and no judge has
requested a vote on whether to rehear the matter
en banc. *See* Fed. R. App. P. 35.

Kinney's petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 8) are denied.

No further filings will be entertained in this closed case.

APPENDIX B

Case: 17-16988 05/23/2018 DktEntry: 7-1

NOT FOR PUBLICATION**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

CHARLES G. KINNEY
Plaintiff-Appellant,

No. 17-16988

v. D.C. No. 3:17-cv-01607-JST
Northern Dist. of Cal., San Fran.

TANI G. CANTIL-SAKAUYE; et al.,
Defendants-Appellees.

FILED
MAY 23 2018
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

MEMORANDUM *

Appeals from the United States District Court for
the Northern District of California Jon S. Tigar,
District Judge, Presiding

Submitted May 15, 2018**

Before: SILVERMAN, BEA, and WATFORD,
Circuit Judges.

Charles G. Kinney appeals pro se from the district court's order dismissing sua sponte his action arising from state court proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Noel v. Hall*, 341 F.3d 1148, 1154 (9th Cir. 2003) (dismissal under the *Rooker-Feldman* doctrine); *Sadoski v. Mosley*, 435 F.3d 1076, 1077 n.1 (9th Cir. 2006) (dismissal on the basis of judicial immunity). We affirm.

The district court properly dismissed Kinney's claims for damages on the basis of judicial immunity and Kinney's claims for injunctive and declaratory relief as barred by the *Rooker-Feldman* doctrine because Kinney's claims amount to a forbidden "de facto appeal" of a prior state court judgment or are "inextricably intertwined" with that judgment. See *Noel*, 341 F.3d at 1163-65 (discussing proper application of the *Rooker-Feldman* doctrine); *Duvall v. County of Kitsap*, 260 F.3d 1124, 1133 (9th Cir. 2001) (describing factors relevant to whether an act is judicial in nature and subject to judicial immunity).

The district court did not abuse its discretion by dismissing the complaint without leave to amend because amendment would be futile. See *Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) (setting forth standard of review and explaining that dismissal without leave to amend is proper when amendment would be futile).

We do not consider matters not specifically and distinctly raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). Kinney's request for oral argument, set forth in the opening brief, is denied.

APPENDIX C

Case: 17-01607 09/06/2017 DktEntry: 18

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHARLES G. KINNEY

Plaintiff,

D.C. No. 3:17-cv-01607-JST

v.

Northern Dist. of Cal., San Fran.

TANI G. CANTIL-SAKAUYE; et al.,

Defendants

**ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION AND
DISMISSING ACTION**

Re: Dkt. Nos. 9, 14, 17

The court has reviewed Magistrate Judge Donna Ryu's Report and Recommendation To Dismiss Case Sua Sponte ("Report"), ECF No. 14, as well Plaintiff Charles Kinney's objections to the Report, ECF No. 17.

The court finds the Report correct, well-reasoned and thorough, and adopts it in every respect. Accordingly, the Court dismisses sua sponte Kinney's action for damages on the basis of judicial immunity; dismisses his requests for injunctive and declaratory relief for lack of subject matter jurisdiction under the Rooker-Feldman doctrine; and denies his motion for permission for electronic case filing as moot.

The Clerk is directed to close the case.

IT IS SO ORDERED.

Dated: September 6, 2017

____s/_____

JON S. TIGAR

United States District Judge

APPENDIX D

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION TWO

CHARLES KINNEY

Appellant,

B266125

(Los Angeles County

v.

Super. Ct. No. BC374938

MICHELE R. CLARK,

Defendant and Respondent.

COURT OF APPEAL – SECOND DIST

FILED

Oct 12, 2016

Joseph A. Lane, Clerk

OCarbone Deputy Clerk

Appellant Charles Kinney, a vexatious litigant (Code Civ. Proc. Secs. 391-391.7) appeals several orders of the Superior Court awarding respondent Michele C. Clark a total of \$209,908.50. Appellant is represented by counsel on this appeal.

On 22 September 2016, respondent filed two motions – a motion for security and a supporting motion for judicial notice. Appellant has filed oppositions to both motions.

After considering the motions, the oppositions, and the authorities cited, the court GRANTS both of appellant's (sic) motions and orders that appellant post with the clerk of the Superior Court a security bond in the amount of \$175,000. If the bond is not posted within 30 days of the filing of this order, this appeal will be dismissed with prejudice

BOREN, P.J.

Presiding Justice