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NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

APR 21 2020

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

EDWARD WAYNE BINNS,

No. 19-55481

Plaintiff-Appellant,

D.C. No. 2:19-cv-00696-ODW-SS

v.

MEMORANDUM*

UNITED STATES OF AMERICA;
UNITED STATES POSTAL SERVICE,

Defendants-Appellees.

Appeal from the United States District Court
for the Central District of California
Otis D. Wright II, District Judge, Presiding

Submitted April 7, 2020**

Before: TASHIMA, BYBEE, and WATFORD, Circuit Judges.

Edward Wayne Binns appeals pro se from the district court's order dismissing his action alleging claims related to his former employment with the United States Postal Service. We have jurisdiction under 28 U.S.C. § 1291. We

* 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).

review de novo a dismissal on the basis of res judicata. *Mpoyo v. Litton Electro-Optical Sys.*, 430 F.3d 985, 987 (9th Cir. 2005). We affirm.

The district court properly dismissed Binns's action as barred by the doctrine of res judicata because Binns litigated these claims against defendants, or their privies, in a prior federal action that resulted in a final judgment on the merits. *See Fed. R. Civ. P. 41(b)* (dismissal for failure to prosecute or comply with a court order "operates as an adjudication on the merits"); *Mpoyo*, 430 F.3d at 987-88 (elements of federal res judicata; claims are identical if they both arise from the same transactional nucleus of facts).

The district court did not abuse its discretion by denying leave to amend the complaint because amendment would be futile. *See Lopez v. Smith*, 203 F.3d 1122, 1127, 1129-30 (9th Cir. 2000) (setting forth standard of review; district court did not abuse its discretion by denying leave to amend, even if no request to amend the pleading was made, if amendment would be futile).

AFFIRMED.

APPENDIX " B "

JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.	2:19-cv-00696-ODW (SSx)	Date	February 27, 2019
Title	<i>Edward Wayne Binns v. United States et al.</i>		

Present: The Honorable Otis D. Wright II, United States District Judge

Sheila English Not reported N/A

Attorneys Present for Plaintiffs: _____ Attorneys Present for Defendants: _____

Not present Not present

Proceedings (In Chambers):

On January 29, 2019, Plaintiff filed a Complaint asserting claims under 42 U.S.C. § 1983. (Compl., ECF No. 1.) Plaintiff indicated on the Civil Cover Sheet filed with his Complaint that he had filed this action before, styled *Edward W. Binns v. United States et al.*, No. 2:17-cv-5624-VBF (SSx) (“*Binns I*”). (See Civil Cover Sheet 3, ECF No. 1-1.) In *Binns I*, which also asserted claims under 42 U.S.C. § 1983, the court dismissed the case with prejudice and entered Final Judgment in favor of all the defendants and against Plaintiff. Order Dismissing Action with Prejudice, *Binns I*, (No. 2:17-cv-5624-VBF (SSx)) (C.D. Cal. Mar. 23, 2018), ECF No. 10; Final J., *Binns I*, (No. 2:17-cv-5624-VBF (SSX)) (C.D. Cal. Mar. 23, 2018), ECF No. 11. Accordingly, Plaintiff is precluded from filing the same case again. *See Allen v. McCurry*, 449 U.S. 90, 94 (1980) (citing *Cromwell v. Sac Cty.*, 94 U.S. 351, 352–53 (1876)) (discussing that res judicata precludes relitigation of claims after final judgment).

The Court therefore dismisses Plaintiff's Complaint in the instant action. The Clerk of the Court shall close the case.

IT IS SO ORDERED.

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