

OCT 13 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CYRUS Y. KIM,

Plaintiff - Appellant,

v.

KAYLA C. STAHRMAN; THOMAS S.
ZILLY,

Defendants - Appellees.

No. 10-35442

D.C. No. 2:10-cv-00213-RHW

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Robert H. Whaley, District Judge, Presiding

Submitted September 27, 2011**

Before: SILVERMAN, W. FLETCHER, and MURGUIA, Circuit Judges.

Cyrus Y. Kim appeals pro se from the district court's judgment dismissing his action alleging violations of his constitutional right to petition the government and state tort law. We have jurisdiction under 28 U.S.C. § 1291. We review de

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

novo. *Olsen v. Idaho State Bd. of Med.*, 363 F.3d 916, 922 (9th Cir. 2004) (judicial immunity); *Fry v. Melaragno*, 939 F.2d 832, 835 (9th Cir. 1991) (absolute immunity). We affirm.

The district court properly dismissed the claims against Assistant United States Attorney Stahman on the basis of prosecutorial immunity. *See Fry*, 939 F.2d at 837 (government attorneys have absolute immunity from damages liability for performing acts “intimately associated with the judicial phase” of litigation).

The district court properly dismissed the claims against Judge Zilly on the basis of judicial immunity. *See Meek v. County of Riverside*, 183 F.3d 962, 965 (9th Cir. 1999) (explaining that “[a] judge is not deprived of immunity because he takes actions which are in error, are done maliciously, or are in excess of his authority”).

The district court did not abuse its discretion by denying Kim’s motion to reconsider because Kim failed to show grounds warranting reconsideration. *See Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth the standard of review and grounds for reconsideration).

Kim’s remaining contentions are unpersuasive.

AFFIRMED.