

JAN 26 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

OLUCHI NNACHI,

Plaintiff - Appellant,

v.

CITY AND COUNTY OF SAN
FRANCISCO,

Defendant - Appellee.

No. 10-17234

D.C. No. 3:10-cv-00714-MEJ

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Maria-Elena James, Chief Magistrate Judge, Presiding**

Submitted January 17, 2012***

Before: LEAVY, TALLMAN, and CALLAHAN, Circuit Judges.

Oluchi Nnachi appeals pro se from the district court's order dismissing his action under the Age Discrimination in Employment Act ("ADEA") as barred by

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

** The parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

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

the doctrine of res judicata. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Stewart v. U.S. Bancorp*, 297 F.3d 953, 956 (9th Cir. 2002), and we affirm.

The district court properly dismissed Nnachi's ADEA claim as barred by the doctrine of res judicata because Nnachi raised, or could have raised, his age discrimination claim in his prior Title VII action that involved the same defendant and an identity of claims, and was decided on the merits. *See Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708, 713-14 (9th Cir. 2001) ("Res judicata . . . bars litigation in a subsequent action of any claims that were raised or could have been raised in the prior action." (citation and internal quotation marks omitted)).

Nnachi's remaining contentions are unpersuasive.

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) (per curiam).

AFFIRMED.