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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>KEVIN LYNN FERNANDEZ,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>STATE OF NEVADA; et al.,</p> <p>Defendants - Appellees.</p>

No. 10-17758

D.C. No. 3:10-cv-00373-ECR-
RAM

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Edward C. Reed, Jr., District Judge, Presiding

Submitted March 6, 2012**

Before: B. FLETCHER, REINHARDT, and TASHIMA, Circuit Judges.

Kevin Lynn Fernandez, a Nevada state prisoner, appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action alleging various constitutional and state law violations. We have jurisdiction under 28 U.S.C.

* 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).

§ 1291. We review for an abuse of discretion a district court's decision to dismiss an action as duplicative, *Adams v. Cal. Dep't of Health Servs.*, 487 F.3d 684, 688 (9th Cir. 2007), and we reverse and remand.

The district court abused its discretion by dismissing this action as duplicative of Fernandez's other action, *Fernandez v. Nevada*, No. 06-cv-00628-LRH-RAM (D. Nev.), because the causes of action in the two cases do not arise out of the same transactional nucleus of facts and do not involve substantially the same evidence and are not, therefore, the same causes of action. *See Adams*, 487 F.3d at 689.

Fernandez shall bear his own costs on appeal.

REVERSED and REMANDED.