

OCT 17 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOHN SHEK,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>NATIONAL LABOR RELATIONS BOARD, REGION 32; CALIFORNIA NURSES ASSOCIATION C.H.E.U.,</p> <p>Defendants - Appellees.</p>
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No. 11-16866

D.C. No. 3:11-cv-00212-WHA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
William Alsup, District Judge, Presiding

Submitted October 9, 2012**

Before: RAWLINSON, MURGUIA, and WATFORD, Circuit Judges.

John Shek appeals pro se from the district court’s order dismissing for lack of subject matter jurisdiction his action challenging the decision of the National

* 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).

Labor Relations Board Regional Director to dismiss Shek's unfair labor practice charge. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Amerco v. NLRB*, 458 F.3d 883, 886 (9th Cir. 2006). We affirm.

The district court properly dismissed Shek's action for lack of subject matter jurisdiction because the Regional Director's decision to dismiss Shek's unfair labor practice charge is not properly subject to judicial review. *See Int'l Ass'n of Machinists & Aerospace Workers v. Lubbers*, 681 F.2d 598, 602 (9th Cir. 1982) (section 3(d) of the Labor Management Relations Act has been construed to preclude review of the General Counsel's initial charging decisions).

The district court did not abuse its discretion in denying Shek's requests for leave to amend his complaint because amendment would have been futile. *See Allwaste, Inc. v. Hecht*, 65 F.3d 1523, 1530 (9th Cir. 1995) (setting forth standard of review and explaining that a district court does not abuse its discretion to deny leave to amend where it "could reasonably conclude that further amendment would be futile").

Shek's pending motions are denied.

AFFIRMED.