

AUG 19 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GUSTAVE WILLIAM LINK,

Plaintiff - Appellant,

v.

JOHN C. DUNCAN, Director, California
Department of Industrial Relations; et al.,

Defendants - Appellees.

No. 12-16248

D.C. No. 3:12-cv-00726-MMC

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Maxine M. Chesney, District Judge, Presiding

Submitted August 14, 2013**

Before: SCHROEDER, GRABER, and PAEZ, Circuit Judges.

Gustave William Link appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging various claims related to his termination from a pile driver union's apprenticeship program. We have

* 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).

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

The district court properly dismissed Link’s action because Link alleged nearly identical claims arising out of the same facts against the same defendants in a prior action in which the court entered a final judgment on the merits. *See Link v. California*, 395 F. App’x 383 (9th Cir. 2010); *Stewart*, 297 F.3d at 956-57 (setting forth elements of the doctrine of res judicata, and noting that “dismissal for failure to state a claim” constitutes a final judgment to which res judicata applies).

Link’s contentions regarding the alleged impropriety of giving preclusive effect to the prior judgment as to claims that Link failed to allege in that action are contrary to established law. *See id.* at 956 (noting that res judicata bars subsequent litigation of claims that were raised, or could have been raised, in a prior action).

Because we affirm dismissal on the basis of the doctrine of res judicata, we need not address the parties’ arguments regarding the alternate grounds relied upon by the district court to support its judgment of dismissal.

Link’s contentions regarding the district court’s denial of his motions to recuse are unpersuasive.

AFFIRMED.