

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 4 2016

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

GARY B. JEFFERSON,

Plaintiff-Appellant,

v.

TIME WARNER CABLE, INC.; TIME
WARNER CABLE, LLC,

Defendants-Appellees.

No. 14-56297

D.C. No. 2:14-cv-01345-GW-CW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
George H. Wu, District Judge, Presiding

Submitted September 27, 2016**

Before: TASHIMA, SILVERMAN, and M. SMITH, Circuit Judges.

Gary B. Jefferson appeals pro se from the district court's judgment dismissing his employment action alleging claims under Title VII and California law. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district

* 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).

court's dismissal on the basis of res judicata. *Stewart v. U.S. Bancorp*, 297 F.3d 953, 956 (9th Cir. 2002). We affirm.

The district court properly dismissed Jefferson's action as precluded by the doctrine of res judicata because Jefferson's claims could have been raised in his prior action, which resulted in a final judgment. *See id.* (stating requirements of res judicata under federal law). Contrary to Jefferson's contention, the continuing tort doctrine does not apply to this action.

The district court did not abuse its discretion in dismissing Jefferson's action without leave to amend because amendment would be futile. *See Serra v. Lappin*, 600 F.3d 1191, 1195, 1200 (9th Cir. 2010) (setting forth standard of review and factors for a district court to consider in determining whether to grant leave to amend).

AFFIRMED.