

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 15 2017

FOR THE NINTH CIRCUIT

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

AMR MOHSEN,

Plaintiff-Appellant,

v.

MORGAN STANLEY & CO. INC.; et al.,

Defendants-Appellees.

No. 16-55606

D.C. No. 2:13-cv-07358-MWF-AS

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Michael W. Fitzgerald, District Judge, Presiding

Submitted August 9, 2017**

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

Federal prisoner Amr Mohsen appeals pro se from the district court's judgment dismissing his action alleging Racketeer Influenced and Corrupt Organizations Act ("RICO") and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Hebbe v. Pliler*, 627 F.3d 338, 341 (9th Cir.

* 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).

2010) (dismissal based on Fed. R. Civ. P. 12(b)(6)); *Jones v. Blanas*, 393 F.3d 918, 926 (9th Cir. 2004) (dismissal based on the applicable statute of limitations). We may affirm on any basis supported by the record. *Thomson v. Paul*, 547 F.3d 1055, 1058-59 (9th Cir. 2008). We affirm.

Dismissal of Mohsen's action was proper on the basis of claim preclusion because Mohsen's claims were raised or could have been raised in a previous action between the parties or their privies that resulted in a final adjudication on the merits. *See Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708, 713-14 (9th Cir. 2001) (discussing claim preclusion elements under federal law); *see also Clements v. Airport Auth. of Washoe Cty.*, 69 F.3d 321, 329-30 (9th Cir. 1995) (recognizing the court's ability to overlook waiver and raise sua sponte claim preclusion).

The district court did not err by taking judicial notice of documents filed in Mohsen's criminal case. *See Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (a court may take judicial notice of matters of public record without converting a motion to dismiss into a motion for summary judgment).

Mohsen's request for oral argument, set forth in his opening brief, is denied.

Mohsen's request to reassign this case to a different district court judge, set forth in his reply brief, is denied.

AFFIRMED.