

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 1 2017

FOR THE NINTH CIRCUIT

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

CRAIG BRUCE McKINNEY,

Plaintiff-Appellant,

v.

RICK MARTINEZ, individually and as an
officer of Fire Extinguisher Service Center,
LLC; et al.,

Defendants-Appellees.

No. 17-15620

D.C. No. 3:16-cv-00448-MMD-
VPC

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Miranda M. Du, District Judge, Presiding

Submitted October 23, 2017**

Before: McKEOWN, WATFORD, and FRIEDLAND, Circuit Judges.

Craig Bruce McKinney appeals pro se from the district court's dismissal of 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

* 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).

novo. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000) (dismissal under 28 U.S.C. § 1915A); *Jones v. Blanas*, 393 F.3d 918, 926 (9th Cir. 2004) (dismissal based on the applicable statute of limitations). We affirm.

The district court properly dismissed McKinney's action as time-barred because McKinney failed to file his action within the applicable statute of limitations. *See Pincay v. Andrews*, 238 F.3d 1106, 1108-09 (9th Cir. 2001) (civil RICO claims have a four-year statute of limitations, which begins to run when a plaintiff knows or should have known of the injury underlying the action); *Grimmett v. Brown*, 75 F.3d 506, 515-16 (9th Cir. 1996) (civil RICO claims were not tolled during the pendency of a prior judicial action because the prior judicial action was not a prerequisite to review in federal court).

We do not consider documents and facts not presented to the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990) ("Documents or facts not presented to the district court are not part of the record on appeal.").

AFFIRMED.