

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 29 2018

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

AMENDED MEMORANDUM*

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

Submitted January 26, 2018**
San Francisco, California

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 affirm.

The district court properly dismissed Mohsen's RICO claims as time-barred because Mohsen failed to allege facts sufficient to show that his RICO claims were timely. *See Living Designs, Inc. v. E.I. Dupont de Nemours & Co.*, 431 F.3d 353, 365 (9th Cir. 2005) (four-year statute of limitations period for civil RICO claims begins to run when a plaintiff knows or should know of the injury that is the basis for the action); *Grimmett v. Brown*, 75 F.3d 506, 512-13 (9th Cir. 1996) (discussing "separate accrual rule" in the RICO context).

The district court did not err by taking judicial notice of the complaint Mohsen filed in an earlier action or documents filed in Mohsen's criminal case. *See Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (setting forth standard of review for district court's decision to take judicial notice; 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.