

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 23 2018

FOR THE NINTH CIRCUIT

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

CHARLES G. KINNEY,

Plaintiff-Appellant,

v.

FRANCES ROTHSCHILD; et al.,

Defendants-Appellees.

No. 17-56356

D.C. No. 2:17-cv-05342-GW-SS

MEMORANDUM*

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

Submitted May 15, 2018**

Before: SILVERMAN, BEA, and WATFORD, Circuit Judges.

Charles G. Kinney appeals pro se from the district court's judgment dismissing his action alleging violations of federal law. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a dismissal for failure to comply with a pre-filing vexatious litigant order. *In re Fillbach*, 223

* 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). Kinney's request for oral argument, set forth in the opening brief, is denied.

F.3d 1089, 1090-91 (9th Cir. 2000). We affirm.

The district court did not abuse its discretion by dismissing Kinney's action because Kinney failed to comply with the vexatious litigant order entered against him. *See id.* at 1091 (litigant may not avoid a vexatious litigant order by filing suit in a different court).

The district court did not abuse its discretion by dismissing Kinney's action without leave to amend because amendment would be futile. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) (setting forth standard of review and explaining that dismissal without leave to amend is proper when amendment would be futile).

The district court did not abuse its discretion by denying Kinney's motion to vacate or reconsider the district court's dismissal order because Kinney failed to establish any grounds for such relief. *See Sch. Dist. No. 1J, Multnomah Cty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth standard of review and grounds for relief under Fed. R. Civ. P. 59 and 60).

We reject as meritless Kinney's contention that the magistrate judge lacked authority to transfer this case and to enter other interlocutory orders. *See* 28 U.S.C. § 636(b)(1)(A).

Appellees Clark, Marcus, and Chomsky's motion to be dismissed from this appeal (Docket Entry No. 12) is granted.

The parties' requests for judicial notice (Docket Entry Nos. 9, 13, and 14) are granted.

AFFIRMED.