

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 27 2022

FOR THE NINTH CIRCUIT

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

MICHAEL RAY SWANSON,

No. 21-35649

Plaintiff-Appellant,

D.C. No. 3:21-cv-00923-HZ

v.

MEMORANDUM*

DEPARTMENT OF VETERANS
AFFAIRS, Secretary,

Defendant-Appellee.

Appeal from the United States District Court
for the District of Oregon
Marco A. Hernandez, District Judge, Presiding

Submitted January 19, 2022**

Before: SILVERMAN, CLIFTON, and HURWITZ, Circuit Judges.

Michael Ray Swanson appeals pro se from the district court's judgment dismissing his Federal Tort Claims Act ("FTCA") action arising from his time at Camp Lejeune in North Carolina. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012)

* 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).

(dismissal under 28 U.S.C. § 1915(e)(2)(B)); *Mpoyo v. Litton Electro-Optical Sys.*, 430 F.3d 985, 987 (9th Cir. 2005) (dismissal on the basis of claim preclusion). We affirm.

The district court properly dismissed Swanson's action on the basis of claim preclusion because Swanson raised, or could have raised, his claims in his prior federal actions, which involved the same parties or their privies and resulted in a final judgment on the merits. *See Mpoyo*, 430 F.3d at 987-88 (elements of federal claim preclusion).

We reject as without merit Swanson's contentions that the district court was biased.

Swanson's motions to appoint counsel (Docket Entry Nos. 3 and 8) are denied. Swanson's motion to proceed in forma pauperis (Docket Entry No. 10) is denied as unnecessary because his in forma pauperis status continues in this court.

AFFIRMED.