

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 30 2023

FOR THE NINTH CIRCUIT

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

KALEB L. BASEY,

No. 22-16900

Plaintiff-Appellant,

D.C. No. 3:21-cv-08688-JCS

v.

MEMORANDUM*

UNITED STATES OF AMERICA,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of California
Joseph C. Spero, Magistrate Judge, Presiding**

Submitted August 15, 2023***

Before: TASHIMA, S.R. THOMAS, and FORREST, Circuit Judges.

Federal prisoner Kaleb L. Basey appeals pro se from the district court's judgment dismissing for improper venue his post-conviction motion for the return of property under Federal Rule of Criminal Procedure 41(g). We have jurisdiction

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

*** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

under 28 U.S.C. § 1291. We may affirm on any ground supported by the record. *Ochoa v. Pub. Consulting Grp., Inc.*, 48 F.4th 1102, 1106 (9th Cir. 2022), *cert. denied*, 143 S. Ct. 783 (2023). We affirm.

Dismissal of Basey’s action was proper because it was barred by claim preclusion. *See Stewart v. U.S. Bancorp*, 297 F.3d 953, 956 (9th Cir. 2002) (“Res judicata, or claim preclusion, prohibits lawsuits on any claims that were raised or could have been raised in a prior action.” (citation, internal quotation marks, and emphasis omitted)). The District of Alaska granted Basey’s prior Rule 41(g) motion, which was affirmed by this court in Appeal No. 21-30196. Because Basey’s prior and current Rule 41(g) motions present an identity of claims, the prior judgment is final, and the parties are in privity, claim preclusion bars this action. *See United States v. Liquidators of Eur. Fed. Credit Bank*, 630 F.3d 1139, 1150-51 (9th Cir. 2011) (stating requirements for claim preclusion to apply).

AFFIRMED.