

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 19 2018

FOR THE NINTH CIRCUIT

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

VINTON P. FROST,

Plaintiff-Appellant,

v.

BECHETTI, Police Officer, Palo Alto Police
Department; et al.,

Defendants-Appellees.

No. 18-15856

D.C. No. 3:16-cv-05883-RS

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Richard Seeborg, District Judge, Presiding

Submitted December 17, 2018**

Before: WALLACE, SILVERMAN, and McKEOWN, Circuit Judges.

Vinton P. Frost appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging constitutional violations. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a district court's dismissal of a complaint as frivolous. *Trimble v. City of Santa*

* 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).

Rosa, 49 F.3d 583, 584 (9th Cir. 1995). We affirm.

The district court did not abuse its discretion by dismissing Frost’s first amended complaint as frivolous because it has no arguable basis in law or fact. *See Denton v. Hernandez*, 504 U.S. 25, 31-32 (1992) (discussing the meaning of “frivolousness”).

The district court did not abuse its discretion by denying Frost’s motion for leave to file a second amended complaint because amendment would have been 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).

AFFIRMED.