

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 25 2019

FOR THE NINTH CIRCUIT

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

WOLFGANG NEBMAIER,

Plaintiff-Appellant,

v.

JOSEPHINE COUNTY, a political entity in the State of Oregon along with all related regulatory entities, past or present, engaged in the violation of 7:301, the Morrill Act of July 2nd, 1862. (in the following “Josephine County”),

Defendant-Appellee.

No. 18-35743

D.C. No. 1:18-cv-01258-MC

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael J. McShane, District Judge, Presiding

Submitted February 19, 2018**

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

Wolfgang Nebmaier appeals pro se from the district court’s judgment dismissing his action alleging claims under the Morrill Act of 1862, 7 U.S.C.

* 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).

§ 301. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Wilhelm v. Rotman*, 680 F.3d 1113, 1118 (9th Cir. 2012) (dismissal under 28 U.S.C. § 1915A); *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order) (dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii)). We affirm.

The district court properly dismissed Nebmaier's action because the Morrill Act of 1862 does not provide a private right of action. *See UFCW Local 1500 Pension Fund v. Mayer*, 895 F.3d 695, 698-99 (9th Cir. 2018) (setting forth circumstances under which the court may interpret a private right of action, and explaining that a private right of action requires evidence of a congressional intent to create a private right and a private remedy).

Nebmaier's request to strike defendant's answering brief, set forth in his reply brief, is denied.

Defendant's pending motion (Docket Entry No. 15) is denied.

AFFIRMED.