

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 28 2021

FOR THE NINTH CIRCUIT

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

JOHN LUCAS,

Plaintiff-Appellant,

v.

COUNTY OF KERN; et al.,

Defendants-Appellees.

No. 20-16439

D.C. No. 1:20-cv-00552-DAD-JLT

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Dale A. Drozd, District Judge, Presiding

Submitted April 20, 2021\*\*

Before: THOMAS, Chief Judge, TASHIMA and SILVERMAN, Circuit Judges.

John Lucas appeals pro se from the district court's judgment sua sponte dismissing his action alleging federal and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We affirm.

In his opening brief, Lucas fails to raise, and therefore has waived, any

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\* 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).

challenge to the district court's dismissal of his action. *See Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) (“[W]e will not consider any claims that were not actually argued in appellant’s opening brief.”); *Acosta-Huerta v. Estelle*, 7 F.3d 139, 144 (9th Cir. 1993) (issues not supported by argument in pro se appellant’s opening brief are waived).

The district court did not abuse its discretion by denying leave to amend the 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 a district court may dismiss without leave to amend when amendment would be futile).

**AFFIRMED.**