

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 2 2024

FOR THE NINTH CIRCUIT

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

RIAN G. WATERS,

Plaintiff-Appellant,

v.

META PLATFORMS, INC.; AIDAN
KEARNEY,

Defendants-Appellees.

No. 23-15547

D.C. No. 4:23-cv-00643-YGR

MEMORANDUM*

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

Submitted April 22, 2024**

Before: CALLAHAN, LEE, and FORREST, Circuit Judges.

Rian G. Waters appeals pro se from the district court's order dismissing his action alleging claims under 42 U.S.C. §§ 1983, 1985(2), 1986, and *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971),

* 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).

related to online harassment. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's dismissal for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii). *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012). We affirm.

The district court properly dismissed Waters's action because Waters failed to allege facts sufficient to show that defendants conspired to deter Waters or any other individual from participating in federal court proceedings, or that defendants acted under color of state law. *See Pasadena Republican Club v. W. Just. Ctr.*, 985 F.3d 1161, 1166-67 (9th Cir. 2021) (explaining § 1983 state actor requirement); *Rutledge v. Ariz. Bd. of Regents*, 859 F.2d 732, 735 (9th Cir. 1988) (elements of a claim under the first clause of § 1985(2)); *Karim-Panahi v. L.A. Police Dep't*, 839 F.2d 621, 626 (9th Cir. 1988) ("A claim can be stated under section 1986 only if the complaint contains a valid claim under section 1985."); *see also Van Strum v. Lawn*, 940 F.2d 406, 409 (9th Cir. 1991) ("Actions under § 1983 and those under *Bivens* are identical save for the replacement of a state actor under § 1983 by a federal actor under *Bivens*.").

Waters's challenge to the denial of his motion for a temporary restraining order and preliminary injunctive relief is moot. *See Mt. Graham Red Squirrel v.*

Madigan, 954 F.2d 1441, 1449-50 (9th Cir. 1992) (when underlying claims have been decided, reversal of denial of preliminary injunctive relief would have no practical consequences, and the issue is therefore moot).

The district court did not abuse its discretion in denying Waters's motion for reconsideration because Waters failed to set forth any basis for relief. *See Sch. Dist. No. 1J, Multnomah County, Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth standard of review and bases for reconsideration).

The district court properly denied as moot Waters's motions to take depositions and to issue summons because the action had already been dismissed. *See Rocky Mountain Farmers Union v. Corey*, 913 F.3d 940, 949 (9th Cir. 2019) (standard of review).

We do not consider arguments or allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

All pending motions and requests are denied.

AFFIRMED.