

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 08-3106

Tony Nenninger,

Appellant,

v.

United States Forest Service;
Mark Rey, in official capacity
as Undersecretary for USDA; Gayle
Kimball, in official capacity as Chief
of Forest Service; Don Palmer, in
official capacity as FS Special Use
Program Manager; John Twiss,
individually and in official capacity as
FS Chief of law enforcement; Gene
Smithson, in official capacity as FS
Incident Commander during Fourth of
July rainbow gatherings; Ellen
Hornstein, individually and in official
capacity as FS legal counsel; John/Jane
Does, individually and in official
capacities for FS and/or other
government agencies; Officer
Kragstadt, individually and in official
capacity in FS law enforcement; Officer
Lampshire, individually and in official
capacity in FS law enforcement,

Appellees.

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* Appeal from the United States
* District Court for the Western
* District of Arkansas.

[UNPUBLISHED]

Submitted: November 23, 2009
Filed: November 27, 2009

Before BYE, BOWMAN, and BENTON, Circuit Judges.

PER CURIAM.

Tony Nenninger appeals from the order of the District Court¹ granting defendants' motion to dismiss or, in the alternative, for summary judgment in his action under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), and the court's subsequent order denying his motion to amend the judgment. Having carefully reviewed the record and Nenninger's arguments, we conclude that the District Court did not err in granting defendants' motion and did not abuse its discretion in denying Nenninger's motion to amend. See Franklin v. Local 2 of the Sheet Metal Workers Int'l Ass'n, 565 F.3d 508, 520 (8th Cir. 2009) (noting that order granting summary judgment is reviewed de novo on appeal); Taxi Connection v. Dakota, Minn. & E. R.R. Corp., 513 F.3d 823, 825 (8th Cir. 2008) (noting that order granting motion to dismiss is reviewed de novo on appeal); United States v. Metro. St. Louis Sewer Dist., 440 F.3d 930, 933 (8th Cir. 2006) (noting that order denying motion under Rule 59(e) of the Federal Rules of Civil Procedure is reviewed for clear abuse of discretion on appeal). Accordingly, we affirm. We also deny Nenninger's pending motion to schedule oral argument.

¹The Honorable Jimm Larry Hendren, Chief Judge, United States District Court for the Western District of Arkansas.