

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 21 2023

FOR THE NINTH CIRCUIT

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

ALEX DAVID TONY SCOTT,

No. 23-35083

Plaintiff-Appellant,

D.C. No. 1:22-cv-00227-BLW

v.

MEMORANDUM\*

SCOTT ANDERS ELIASON, MD,

Defendant-Appellee.

Appeal from the United States District Court  
for the District of Idaho

B. Lynn Winmill, District Judge, Presiding

Submitted November 14, 2023\*\*

Before: SILVERMAN, WARDLAW, and TALLMAN, Circuit Judges.

Idaho state prisoner Alex David Tony Scott appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging violations of his First and Eighth Amendment rights. We have jurisdiction under 28 U.S.C. § 1291.

We review de novo. *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012)

(dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii)); *Resnick v. Hayes*, 213 F.3d 443,

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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).

447 (9th Cir. 2000) (dismissal under 28 U.S.C. § 1915A). We affirm.

The district court properly dismissed Scott's action because Scott failed to allege facts sufficient to state a plausible claim. *See Hebbe v. Pliler*, 627 F.3d 338, 341-42 (9th Cir. 2010) (although pro se pleadings are to be construed liberally, a plaintiff must present factual allegations sufficient to state a plausible claim for relief); *see also Jones v. Williams*, 791 F.3d 1023, 1031-32 (9th Cir. 2015) (elements of a § 1983 free exercise claim); *Toguchi v. Chung*, 391 F.3d 1051, 1057-58 (9th Cir. 2004) (elements of a § 1983 medical deliberate indifference claim).

We do not consider arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009). We do not consider documents not filed with the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990).

All pending motions are denied.

**AFFIRMED.**