

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 24 2024

FOR THE NINTH CIRCUIT

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

SCOTT YORK, an individual,

No. 23-55122

Plaintiff-Appellant,

D.C. No. 2:22-cv-09127-JAK-SP

v.

MEMORANDUM*

UNITED STATES OF AMERICA; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Central District of California
John A. Kronstadt, District Judge, Presiding

Submitted January 17, 2024**

Before: S.R. THOMAS, McKEOWN, and HURWITZ, Circuit Judges.

Scott York appeals pro se from the district court's judgment dismissing his action alleging various federal claims. We have jurisdiction under 28 U.S.C.

§ 1291. We review de novo a sua sponte dismissal under Federal Rule of Civil Procedure 12(b)(6). *Omar v. Sea-Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir.

* 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).

1987). We affirm.

The district court properly dismissed York's action because York failed to allege facts sufficient to state any plausible claim. *See id.* (explaining that a district court may dismiss sua sponte under Rule 12(b)(6) "without notice where the claimant cannot possibly win relief"); *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (explaining that to avoid dismissal, "a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face," and that "[a] claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged" (citation and internal quotation marks omitted)).

The district court did not abuse its discretion in dismissing without leave to amend because amendment would be futile. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) (setting forth standard of review and explaining that dismissal without leave to amend is proper if amendment would be futile).

The district court did not abuse its discretion in denying York's requests for injunctive relief because York failed to demonstrate a likelihood of success on the merits of his claims. *See Am. Trucking Ass'n, Inc. v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009) (setting forth standard of review and explaining that a plaintiff seeking a preliminary injunction must establish that the plaintiff is

likely to succeed on the merits).

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).

York's motion for injunctive relief on appeal and judicial notice (Docket Entry No. 6) is denied.

AFFIRMED.