

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 25 2017

FOR THE NINTH CIRCUIT

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

FRANK EVERSOLE,

Plaintiff-Appellant,

v.

INTERNAL REVENUE SERVICE,

Defendant-Appellee.

No. 16-35035

D.C. No. 4:14-cv-00101-REB

MEMORANDUM*

Appeal from the United States District Court
for the District of Idaho
Ronald E. Bush, Magistrate Judge, Presiding**

Submitted April 11, 2017***

Before: GOULD, CLIFTON, and HURWITZ, Circuit Judges.

Frank Eversole appeals pro se from the district court's judgment dismissing his action alleging that the Internal Revenue Service illegally levied his Social Security disability insurance benefits. We have jurisdiction under 28 U.S.C.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

*** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1291. We review de novo a dismissal for failure to state a claim. *Doe v. Internet Brands, Inc.*, 824 F.3d 846, 849 (9th Cir. 2016). We affirm.

The district court properly dismissed Eversole's action because the Internal Revenue Service has the authority to levy Eversole's Social Security disability insurance benefits. *See* 26 U.S.C. § 6334(a) (enumerating property exempt from levy for taxes); *id.* § 6334(c) (providing that no other property is exempt from levy other than property enumerated in subsection (a)); *see also id.* § 6331(a) (Secretary has the power to levy property and rights to property if a person is liable for unpaid taxes, and federal payments can be levied).

We do not consider matters not specifically and distinctly raised and argued at the district court. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.