

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 10 2020

FOR THE NINTH CIRCUIT

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

BRENDA M. JOHNSON,

Plaintiff-Appellant,

v.

DEPARTMENT OF SOCIAL AND
HEALTH SERVICES; et al.,

Defendants-Appellees.

No. 19-35609

D.C. No. 3:19-cv-05174-BHS

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Benjamin H. Settle, District Judge, Presiding

Submitted April 7, 2020**

Before: TASHIMA, BYBEE, and WATFORD, Circuit Judges.

Brenda M. Johnson appeals pro se from the district court's judgment dismissing her 42 U.S.C. § 1983 action against the Washington State Department of Social and Health Services ("DSHS") and Terry Rembert alleging various claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the

* 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).

district court's sua sponte dismissal for failure to state a claim under Fed. R. Civ. P. 12(b)(6). *Omar v. Sea-Land Serv., Inc.*, 813 F.2d 986, 991 (9th Cir. 1987). We affirm.

The district court properly dismissed Johnson's action because Johnson failed to allege facts sufficient to state a plausible claim and DSHS is a state agency not subject to liability under § 1983. *See Hebbe v. Pliler*, 627 F.3d 338, 341-42 (9th Cir. 2010) (although pro se pleadings are construed liberally, a plaintiff must present factual allegations sufficient to state a plausible claim for relief); *Maldonado v. Harris*, 370 F.3d 945, 951 (9th Cir. 2004) (state agencies are not "persons" within the meaning of § 1983 and therefore not amenable to suit under § 1983).

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

AFFIRMED.