

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 10 2020

FOR THE NINTH CIRCUIT

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

LYLE MARK COULTAS,

No. 19-35421

Plaintiff-Appellant,

D.C. No. 3:19-cv-00021-HZ

v.

MEMORANDUM*

CARROLL TICHENOR, Individually and
in his Official Capacity as a Yamhill County
Prosecutor; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Oregon
Marco A. Hernandez, Chief Judge, Presiding

Submitted June 2, 2020**

Before: LEAVY, PAEZ, and BENNETT, Circuit Judges.

Lyle Mark Coultas appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging fraud on the court. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's

* 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).

dismissal on the basis of res judicata. *Stewart v. U.S. Bancorp.*, 297 F.3d 953, 956 (9th Cir. 2002). We may affirm on any basis supported by the record, *Thompson v. Paul*, 547 F.3d 1055, 1058-59 (9th Cir. 2008), and we affirm.

Dismissal of Coultas's action to set aside a prior judgment for fraud on the court was proper because Coultas failed to allege facts sufficient to state a claim. *See Hebbe v. Pliler*, 627 F.3d 338, 341-42 (9th Cir. 2010) (although pro se pleadings are to be liberally construed, a plaintiff must still present factual allegations sufficient to state a plausible claim for relief); *see also Applying v. State Farm Mut. Auto. Ins. Co.*, 340 F.3d 769, 780 (9th Cir. 2003) ("Fraud on the court requires a grave miscarriage of justice." (citation and internal quotation marks omitted)).

We reject as unsupported by the record Coultas's contentions regarding judicial misconduct.

All pending motions are denied.

AFFIRMED.