

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 15 2020

FOR THE NINTH CIRCUIT

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

JEAN PAUL LAUREN,

Plaintiff-Appellant,

v.

MONTANA STATE UNIVERSITY; et al.,

Defendants-Appellees.

No. 19-35003

D.C. No. 2:17-cv-00062-BMM-JCL

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Brian M. Morris, District Judge, Presiding

Submitted September 8, 2020**

Before: TASHIMA, SILVERMAN, and OWENS, Circuit Judges.

Jean Paul Lauren appeals pro se from the district court’s summary judgment and dismissal order in his action alleging claims under the Americans with Disabilities Act (“ADA”), Racketeer Influenced and Corrupt Organizations Act (“RICO”), and state law. We have jurisdiction under 28 U.S.C. § 1291. We

* 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).

review de novo. *Puri v. Khalsa*, 844 F.3d 1152, 1157 (9th Cir. 2017) (dismissal for failure to state a claim); *Guatay Christian Fellowship v. County of San Diego*, 670 F.3d 957, 970 (9th Cir. 2011) (summary judgment). We affirm.

The district court properly granted summary judgment on Lauren's ADA reasonable accommodation claim because Lauren failed to file his claim within the applicable statute of limitations period. *See* Mont. Code Ann. § 49-2-501(4) (party has, at most, 300 days to file a complaint alleging unlawful discrimination under the Montana Human Rights Act); *Pickern v. Holiday Quality Foods Inc.*, 293 F.3d 1133, 1137 n.2 (9th Cir. 2002) (for ADA claims, courts apply the statute of limitations for the most analogous state law).

The district court properly dismissed Lauren's RICO and defamation claims because Lauren 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 construed liberally, plaintiff must present factual allegations sufficient to state a plausible claim for relief); *Sanford v. MemberWorks, Inc.*, 625 F.3d 550, 557 (9th Cir. 2010) (elements of a RICO claim); *Lee v. Traxler*, 384 P.3d 82, 86 (Mont. 2016) (elements of a defamation claim under Montana law).

Denial of Lauren's request for leave to amend his RICO and defamation claims was not an abuse of discretion because amendment would have been futile. *See Gordon v. City of Oakland*, 627 F.3d 1092, 1094 (9th Cir. 2010) (setting forth

standard of review and explaining that leave to amend may be denied if amendment would be futile).

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

AFFIRMED.