

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 17 2020

FOR THE NINTH CIRCUIT

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

MARCUS DAVID RUSSELL,

No. 20-16378

Plaintiff-Appellant,

D.C. No. 2:19-cv-05012-SPL-CDB

v.

MEMORANDUM*

J. SCOTT; et al.,

Defendants-Appellees,

and

CHARLES L. RYAN; et al.,

Defendants.

Appeal from the United States District Court
for the District of Arizona
Steven Paul Logan, District Judge, Presiding

Submitted November 9, 2020**

Before: THOMAS, Chief Judge, TASHIMA and W. FLETCHER, Circuit Judges.

Arizona state prisoner Marcus David Russell appeals pro se from the district

* 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).

court's order denying his motion for a preliminary injunction in his action brought under 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act ("RLUIPA"). We have jurisdiction under 28 U.S.C. § 1292(a)(1). We review for an abuse of discretion. *Jackson v. City & County of San Francisco*, 746 F.3d 953, 958 (9th Cir. 2014). We affirm.

The district court did not abuse its discretion by denying Russell's motion for a preliminary injunction because Russell failed to establish that he is likely to succeed on the merits of his claims. *See id.* (plaintiff seeking preliminary injunction must establish that he is likely to succeed on the merits, he is likely to suffer irreparable harm in the absence of preliminary relief, the balance of equities tips in his favor, and an injunction is in the public interest); *see also Walker v. Beard*, 789 F.3d 1125, 1134-37 (9th Cir. 2015) (elements of RLUIPA claim); *Jones v. Williams*, 791 F.3d 1023, 1031-32 (9th Cir. 2015) (elements of free exercise claim).

We reject as without merit Russell's contention that the district court improperly excluded the declarations attached to his motion for a preliminary injunction.

AFFIRMED.