

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 3 2021

FOR THE NINTH CIRCUIT

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

DAVID SCOTT HARRISON,

Plaintiff-Appellant,

v.

J. SHAFFER; et al.,

Defendants-Appellees.

No. 19-17409

D.C. No. 3:18-cv-04454-CRB

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, District Judge, Presiding

Submitted January 20, 2021**

Before: McKEOWN, CALLAHAN, and BRESS, Circuit Judges.

California state prisoner David Scott Harrison appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging due process violations arising out of his parole hearing. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Federal Rule of Civil

* 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).

Procedure 12(b)(6) for failure to state a claim. *Kwan v. SanMedica Int'l*, 854 F.3d 1088, 1093 (9th Cir. 2017). We affirm.

The district court properly dismissed Harrison's action because Harrison failed to allege facts sufficient to state a plausible due process claim. *See Swarthout v. Cooke*, 562 U.S. 216, 220 (2011) (a federal due process claim in the parole context requires only that prisoner be provided with an opportunity to be heard and a statement of the reasons why parole was denied).

The district court did not abuse its discretion in denying Harrison's motion for reconsideration because Harrison failed to demonstrate any basis for relief. *See Sch. Dist. No. 1J Multnomah Cty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth grounds for reconsideration).

Harrison's request for appointment of counsel and trial by jury, set forth in the opening brief, is denied.

AFFIRMED.