

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 24 2021

FOR THE NINTH CIRCUIT

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

BENJAMIN FREEMAN,

No. 20-15998

Plaintiff-Appellant,

D.C. No. 4:20-cv-00101-RM-PSOT

v.

MEMORANDUM*

CHARLES RYAN; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Arizona

Rosemary Márquez, District Judge, Presiding

Submitted February 17, 2021**

Before: FERNANDEZ, BYBEE, and BADE, Circuit Judges.

Arizona state prisoner Benjamin Freeman appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging retaliation and deliberate indifference claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under 28 U.S.C. § 1915(e). *Barren v. Harrington*, 152

* 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).

F.3d 1193, 1194 (9th Cir. 1998) (order). We affirm.

The district court properly dismissed Freeman’s action as duplicative because it is based on the same factual allegations as those in *Freeman v. State of Arizona*, CV 18-01015-PHX-JAT. *See Cato v. United States*, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995) (duplicative complaints can be dismissed as “abusive” under 28 U.S.C. § 1915(e)).

The district court did not abuse its discretion by dismissing Freeman’s complaint without leave to amend 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 grounds for dismissing without leave to amend).

Freeman’s request for a status report is denied as moot.

AFFIRMED.