

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 26 2021

FOR THE NINTH CIRCUIT

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

PAUL E. JOZWIAK,

No. 20-17361

Plaintiff-Appellant,

D.C. No. 4:20-cv-00039-DCB

v.

MEMORANDUM*

RAYTHEON MISSILE SYSTEMS; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Arizona
David C. Bury, District Judge, Presiding

Submitted August 17, 2021**

Before: SILVERMAN, CHRISTEN, and LEE, Circuit Judges.

Paul E. Jozwiak appeals pro se from the district court's judgment dismissing his action alleging federal claims arising from the termination of his employment and benefits. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a dismissal for failure to serve the summons and complaint

* 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).

under Federal Rule of Civil Procedure 4(m). *Oyama v. Sheehan (In re Sheehan)*, 253 F.3d 507, 511 (9th Cir. 2001). We affirm.

The district court did not abuse its discretion by dismissing Jozwiak's action because Jozwiak failed to effect proper service of the summons and amended complaint after being given notice and repeated opportunities and directives to do so. *See* Fed. R. Civ. P. 4(m) (outlining requirements for proper service and explaining that a district court may dismiss for failure to serve after providing notice and absent a showing of good cause for failure to serve); Ariz. R. Civ. P. 4.1-4.2 (outlining requirements for proper service); *In re Sheehan*, 253 F.3d at 512-13 (discussing good cause and district court's broad discretion to dismiss an action).

The district court properly dismissed Jozwiak's original complaint with leave to amend for failure to comply with Federal Rule of Civil Procedure 8(a)(2). *See* Fed. R. Civ. P. 8(a)(2) (pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief"); *McHenry v. Renne*, 84 F.3d 1172, 1179-80 (9th Cir. 1996) (affirming dismissal of complaint that failed to set forth simple, concise and direct averments); *see also Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order) (dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii) is reviewed de novo); *Dominguez v. Miller (In re Dominguez)*, 51 F.3d 1502, 1508 n.5 (9th Cir. 1995) (dismissal under Fed. R. Civ. P. 8 is

reviewed de novo).

We reject as without merit Jozwiak's contentions that the district court was biased.

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

AFFIRMED.