

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 15 2021

FOR THE NINTH CIRCUIT

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

MARY A. NELSON ROGERS,

No. 20-17294

Plaintiff-Appellant,

D.C. No. 2:19-cv-01564-TLN-CKD

v.

MEMORANDUM*

UNITED STATES INTERNAL REVENUE
SERVICE; CHARLES P. RETTING, IRS
Commissioner,

Defendants-Appellees,

and

PAUL J. ENJALRAN, IRS Officer, Area
#6; et al.,

Defendants.

Appeal from the United States District Court
for the Eastern District of California
Troy L. Nunley, District Judge, Presiding

Submitted October 12, 2021**

Before: TALLMAN, RAWLINSON, and BUMATAY, Circuit Judges.

* 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).

Mary A. Nelson Rogers appeals pro se from the district court's judgment in her action challenging Internal Revenue Service ("IRS") tax collection efforts. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's dismissal under Federal Rule of Civil Procedure 12(b)(1) and (b)(6). *Davidson v. Kimberly-Clark Corp.*, 889 F.3d 956, 963 (9th Cir. 2018). We affirm.

The district court properly dismissed Rogers's action because Rogers failed to allege facts sufficient to state any plausible claim. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (a plaintiff must present factual allegations sufficient to state a plausible claim for relief); *Cholla Ready Mix, Inc. v. Civish*, 382 F.3d 969, 973 (9th Cir. 2004) (a party's conclusory allegations, unwarranted deductions of fact, or unreasonable inferences need not be accepted as true). To the extent Rogers sought injunctive and equitable relief, such relief is barred by the Anti-Injunction Act (the "Act"), which prohibits any attempt to restrain the IRS's tax assessment and collection activities, with limited exceptions that do not apply here. *See* 26 U.S.C. § 7421(a) (listing statutory exceptions to the Act); *Elias v. Connett*, 908 F.2d 521, 523, 525 (9th Cir. 1990) (setting forth limited judicial exception to the Act).

We reject as meritless Rogers's contention that her due process rights were violated.

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). We do not consider documents not filed with the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990).

All pending motions are denied.

AFFIRMED.