

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 26 2023

FOR THE NINTH CIRCUIT

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

JAMES ELLIOTT ROMEO,

No. 22-15340

Plaintiff-Appellant,

D.C. No. 2:22-cv-00236-DLR-DMF

v.

MEMORANDUM*

TERRY L. STEWART, Former Director of
Arizona Dept. of Corrections / ADOC
Central Office, Phoenix; CHARLES L.
RYAN, Former Director of A.D.O.C.R.R. at
Central Office, Phoenix; DAVID SHINN,
Current A.D.O.C.R.R. Director at Central
Office, Phoenix,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Arizona
Douglas L. Rayes, District Judge, Presiding

Submitted January 18, 2023**

Before: GRABER, PAEZ, and NGUYEN, Circuit Judges.

Arizona state prisoner James Elliott Romeo 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 judgment dismissing his 42 U.S.C. § 1983 action alleging an access-to-courts claim. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under 28 U.S.C. § 1915A. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). We affirm.

The district court properly dismissed Romeo's action because Romeo failed to allege facts sufficient to state a plausible claim. *See Lewis v. Casey*, 518 U.S. 343, 349-54 (1996) (setting forth the elements of an access-to-courts claim and explaining that the right to access the courts does not include the right "to litigate effectively once in court" (emphasis omitted)); *see also Hebbe v. Pliler*, 627 F.3d 338, 341-42 (9th Cir. 2010) (although pro se pleadings are construed liberally, a plaintiff must present factual allegations sufficient to state a plausible claim for relief).

We do not consider 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).

AFFIRMED.