

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 5 2023

FOR THE NINTH CIRCUIT

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

ROBERT JAMES STEWART,

Plaintiff-Appellant,

v.

KILOLO KIJAKAZI, Acting Commissioner  
of Social Security,

Defendant-Appellee.

No. 22-35751

D.C. No. 2:22-cv-00185-ACE

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of Washington  
Alexander C. Ekstrom, Magistrate Judge, Presiding

Submitted June 26, 2023\*\*

Before: CANBY, S.R. THOMAS, and CHRISTEN, Circuit Judges.

Robert James Stewart appeals pro se from the district court's order dismissing without prejudice his action alleging unlawful denial of benefits under the Social Security Act. We have jurisdiction under 28 U.S.C. § 1291. We review

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\* 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).

de novo a dismissal under 28 U.S.C. § 1915(e)(2). *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012). We affirm.

The district court properly dismissed Stewart’s action because Stewart failed to allege facts sufficient to establish exhaustion of administrative requirements or to state a plausible claim against the Commissioner of Social Security. *See* 42 § U.S.C. 405(g); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (to avoid dismissal, “a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face” (citation and internal quotation marks omitted)).

All pending motions are denied.

**AFFIRMED.**