

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 4 2023

FOR THE NINTH CIRCUIT

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

DOUGLAS RAY ARLEDGE,

No. 22-35358

Plaintiff-Appellant,

D.C. No. 1:20-cv-00466-DCN

v.

MEMORANDUM*

BOISE CITY ATTORNEY,

Defendant-Appellee,

and

ALAN E. TRIMMING; TIM HANSEN;
JOEL HORTON; FORMER ADA COUNTY
PUBLIC DEFENDERS; AMIL MYSHIN;
FORMER ADA COUNTY PROSECUTOR;
ADA COUNTY PROSECUTOR'S OFFICE;
DOES, John-Jane, A-Z,

Defendants.

Appeal from the United States District Court
for the District of Idaho
David C. Nye, District Judge, Presiding

Submitted July 18, 2023**

* 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).

Before: SCHROEDER, RAWLINSON, and BADE, Circuit Judges.

Former Idaho state prisoner Douglas Ray Arledge appeals pro se from the district court's judgment dismissing his claims arising out of state court criminal proceedings. 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)(6). *Skilstaf, Inc. v. CVS Caremark Corp.*, 669 F.3d 1005, 1014 (9th Cir. 2012). We affirm.

The district court properly dismissed Arledge's action because Arledge failed to allege facts sufficient to state a plausible claim. *See Hebbe v. Pliler*, 627 F.3d 338, 341-42 (9th Cir. 2010) (although pro se pleadings are to be construed liberally, a plaintiff must still present factual allegations sufficient to state a plausible claim for relief); *Sanders v. Brown*, 504 F.3d 903, 910 (9th Cir. 2007) ("Conclusory allegations and unreasonable inferences . . . are insufficient to defeat a motion to dismiss.").

The district court did not err in dismissing Arledge's action without allowing him to engage in discovery. *See Rutman Wine Co. v. E. & J. Gallo Winery*, 829 F.2d 729, 738 (9th Cir. 1987) ("The purpose of [Rule] 12(b)(6) is to enable defendants to challenge the legal sufficiency of complaints without subjecting themselves to discovery.").

The district court did not abuse its discretion in denying Arledge's motion for reconsideration because Arledge failed to demonstrate any basis for relief. *See*

Allstate Ins. Co. v. Herron, 634 F.3d 1101, 1111 (9th Cir. 2011) (setting forth standard of review and grounds for reconsideration under Rule 59(e)); *Coastal Transfer Co. v. Toyota Motor Sales, U.S.A.*, 833 F.2d 208, 211 (9th Cir. 1987) (“Evidence is not ‘newly discovered’ under the Federal Rules if it was in the moving party’s possession at the time of trial or could have been discovered with reasonable diligence.”).

We lack jurisdiction to consider Arledge’s contentions regarding the dismissal of his claims against the Ada County defendants because his appeal as to these defendants is untimely. *See* Fed. R. App. P. 4(a)(1). In November 2021, the district court issued its Rule 54(b) order as to the dismissal of Arledge’s claims against the Ada County defendants, but Arledge did not appeal the dismissal until May 2022.

AFFIRMED.