

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 30 2023

FOR THE NINTH CIRCUIT

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

RICHARD LEE GREEN,

No. 22-35279

Plaintiff-Appellant,

D.C. No. 3:21-cv-00261-JMK

v.

MEMORANDUM*

DINH HOANG PHUONG,

Defendant-Appellee.

Appeal from the United States District Court
for the District of Alaska

Joshua M. Kindred, District Judge, Presiding

Submitted August 15, 2023**

Before: TASHIMA, S.R. THOMAS, and FORREST, Circuit Judges.

Richard Lee Green appeals pro se from the district court's judgment dismissing for lack of subject matter jurisdiction his action under the Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, T.I.A.S. No. 11670, S. Treaty Doc. No. 99-11 ("Convention"), as implemented by

* 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).

the International Child Abduction Remedies Act, 22 U.S.C. §§ 9001, *et seq.* We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Federal Rule of Civil Procedure 12(b)(1). *Carolina Cas. Ins. Co. v. Team Equip., Inc.*, 741 F.3d 1082, 1086 (9th Cir. 2014). We may affirm on any basis supported by the record. *Thompson v. Paul*, 547 F.3d 1055, 1058-59 (9th Cir. 2008). We affirm.

Dismissal of Green’s action was proper because Green did not allege facts sufficient to show that his children were “habitually resident in a Contracting State” because Indonesia is not a Convention signatory. *See* Convention, Art. 4 (providing that the Convention applies “to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights”); U.S. Hague Convention Treaty Partners, Travel.State.Gov, <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/abductions/hague-abduction-country-list.html> (listing contracting states to the Convention).

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).

All pending motions and requests are denied.

AFFIRMED.