

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 23 2024

FOR THE NINTH CIRCUIT

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

DAVID JOHN THISTLE,

Plaintiff-Appellant,

v.

JOE BIDEN, President of the United States;  
MERRICK B. GARLAND, Attorney  
General,

Defendants-Appellees.

No. 22-56167

D.C. No. 3:22-cv-00065-RSH-NLS

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Robert Steven Huie, District Judge, Presiding

Submitted July 16, 2024\*\*

Before: SCHROEDER, VANDYKE, and KOH, Circuit Judges.

David John Thistle appeals pro se from the district court's order dismissing for failure to comply with Federal Rule of Civil Procedure 4 his action alleging federal claims. We have jurisdiction under 28 U.S.C. § 1291. We review for an

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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).

abuse of discretion. *Omayya v. Sheehan (In re Sheehan)*, 253 F.3d 507, 511 (9th Cir. 2001). We affirm.

The district court did not abuse its discretion in dismissing Thistle's action because Thistle failed to effect proper service on defendants after being given notice, opportunities, and directives to do so, and Thistle did not establish good cause for his failure to serve. *See* Fed. R. Civ. P. 4(a)-(c) (setting forth requirements for service of process, including that the summons must be served with a copy of the complaint); Fed. R. Civ. P. 4(i) (setting forth requirements for serving the United States and its officials); Fed. R. Civ. P. 4(m) (explaining that district court may dismiss for failure to serve after providing notice and absent a showing of good cause for failure to serve).

We reject as unsupported by the record Thistle's contentions that the district judge was biased against him.

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).

All pending motions and requests are denied.

**AFFIRMED.**