

NOT FOR PUBLICATION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

TOMAS ALVARADO, AKA Thomas  
Alvarado,

Plaintiff-Appellant,

v.

RYAN T. BLACKHAWK; JOHN KEMPE,  
Detective; TRAVIS NALDER,

Defendants-Appellees.

No. 23-35334

D.C. No. 1:22-cv-00293-BLW

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Idaho  
B. Lynn Winmill, District Judge, Presiding

Submitted July 16, 2024\*\*

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

Tomas Alvarado appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging federal claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Lukovsky v. City &*

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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).

*County of San Francisco*, 535 F.3d 1044, 1047 (9th Cir. 2008) (dismissal on the basis of the applicable statute of limitations); *Hamilton v. Brown*, 630 F.3d 889, 892 (9th Cir. 2011) (dismissal under 28 U.S.C. § 1915A); *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order) (28 U.S.C. § 1915(e)(2)(B)(ii)). We affirm.

The district court properly dismissed Alvarado's action because Alvarado failed to file it within the applicable two-year statute of limitations, and failed to allege facts sufficient to show he was entitled to tolling or equitable estoppel. *See Fink v. Shedler*, 192 F.3d 911, 914 (9th Cir. 1999) (§ 1983 claims are subject to the forum state's statute of limitations and tolling rules for personal injury claims); *Jablon v. Dean Witter & Co.*, 614 F.2d 677, 682 (9th Cir. 1980) (a complaint may be dismissed as time-barred if the running of the statute of limitations is apparent on the face of the complaint); *see also* Idaho Code § 5-219(4) (providing two-year statute of limitations for personal injury claims); Idaho Code § 5-230 (allowing tolling of personal injury claims only for claimants under the age of majority or for reason of insanity); *J.R. Simplot Co. v. Chemetics Int'l, Inc.*, 887 P.2d 1039, 1041 (Idaho 1994) (setting forth requirements for equitable estoppel).

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).

**AFFIRMED.**