

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 23 2024

FOR THE NINTH CIRCUIT

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

CAROLYN SIOUX GREEN,

No. 22-35794

Plaintiff-Appellant,

D.C. No. 2:21-cv-01276-RAJ

v.

MEMORANDUM*

UNITED STATES OF AMERICA; UNITED STATES COAST GUARD; DEPARTMENT OF VETERANS AFFAIRS; DOES, 1-55,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Washington
Richard A. Jones, District Judge, Presiding

Submitted December 17, 2024**

Before: WALLACE, GRABER, and BUMATAY, Circuit Judges.

Carolyn Sioux Green appeals pro se from the district court's judgment dismissing her action under the Federal Tort Claims Act ("FTCA") and other federal laws. We have jurisdiction under 28 U.S.C. § 1291. We review de novo.

* 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). Green's request for oral argument, set forth in the opening brief, is denied.

Hensley v. United States, 531 F.3d 1052, 1056 (9th Cir. 2008). We may affirm on any basis supported by the record. *Thompson v. Paul*, 547 F.3d 1055, 1058-59 (9th Cir. 2008). We affirm.

The district court properly dismissed Green’s FTCA claims as untimely because Green failed to present her claims to the appropriate agency within two years after the claims accrued and failed to allege facts sufficient to show that she was entitled to equitable tolling. *See* 28 U.S.C. § 2401(b) (setting forth the two-year statute of limitations for presentment of claims under the FTCA); *Blair v. IRS*, 304 F.3d 861, 868 (9th Cir. 2002) (setting forth the requirements to present a FTCA claim); *Westbay Steel, Inc. v. United States*, 970 F.2d 648, 651 (9th Cir. 1992) (explaining that the only relief provided by the FTCA is monetary damages); *see also Wong v. Beebe*, 732 F.3d 1030, 1052 (9th Cir. 2013) (en banc) (explaining elements necessary for equitable tolling); *Johnson v. Lucent Techs. Inc.*, 653 F.3d 1000, 1010 (9th Cir. 2011) (setting forth the test for equitable tolling on the basis of mental impairment).

To the extent that Green contends that her drug violation claim was not brought under the FTCA, dismissal of her claim was proper because Green failed to allege facts sufficient to state a plausible claim. *See 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)); *Graham v. United States*, 96 F.3d 446, 448 (9th Cir. 1996) (“The United States is immune from suit unless it consents to be sued.”).

The district court did not abuse its discretion by denying Green’s motion for reconsideration or her motion to reopen another action that had been dismissed and consolidate that action with this action. *See Sch. Dist. No. 1J, Multnomah County, Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth standard of review and bases for reconsideration); *Pierce v. County of Orange*, 526 F.3d 1190, 1203 (9th Cir. 2008) (setting forth standard of review for consolidation). The district court properly denied Green’s post-judgment motions for default because the action had already been dismissed.

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.