**NOT FOR PUBLICATION**

FILED

AUG 26 2026

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

OM P. GARG,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee,

and

DANIAL WERFEL, Commissioner of IRS, BRIAN BEDDINGFIELD, IRS Counsel, IRINA CLARK, Taxpayer Advocate, DOES, 1-5 inclusive,

Defendants.

No. 25-5751

D.C. No.
8:25-cv-00248-FWS-ADS

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Fred W. Slaughter, District Judge, Presiding

Submitted August 25, 2026**

Before: SILVERMAN, N.R. SMITH, and DE ALBA, Circuit Judges.

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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).

Om P. Garg appeals pro se from the district court's judgment dismissing his action seeking a tax refund and related claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Federal Rule of Civil Procedure 12(b)(1). *Garza v. Woods*, 150 F.4th 1118, 1123 (9th Cir. 2025). We affirm.

The district court properly dismissed Garg's tax refund claim for lack of subject matter jurisdiction because Garg previously petitioned the Tax Court. *See* 26 U.S.C. § 6512(a); *Mar Monte Corp. v. United States*, 503 F.2d 254, 256 (9th Cir. 1974) (explaining that a party "seek[ing] a refund for a year which previously has been the subject of a final Tax Court judgment . . . must surmount the statutory bar" of § 6512(a)); *First Nat. Bank of Chicago v. United States*, 792 F.2d 954, 956 (9th Cir. 1986) ("[T]he mere filing of the petition operates to deprive the district court of jurisdiction to entertain a subsequent suit for refund." (citation omitted)). No statutory exception applies. *See* 26 U.S.C. §§ 6512(a)(1)-(6) (setting forth exceptions).

The district court did not abuse its discretion by dismissing Garg's tax refund claim without leave to amend. *See Reddy v. Litton Indus., Inc.*, 912 F.2d 291, 296 (9th Cir. 1990) (setting forth the standard of review and explaining that dismissal without leave to amend is proper when amendment would be futile); *see also Lucas v. Dep't of Corr.*, 66 F.3d 245, 248 (9th Cir. 1995) (explaining that if "it is absolutely clear that no amendment can cure the defect," a pro se litigant is not "entitled to notice of the complaint's deficiencies and an opportunity to amend").

The district court did not abuse its discretion by dismissing Garg's state law claims with prejudice. *See Frigard v. United States*, 862 F.2d 201, 204 (9th Cir. 1988) (setting forth the standard of review and explaining that dismissal with prejudice is proper when "the bar of sovereign immunity is absolute" and redrafting will not cure the pleading's deficiency).

We do not consider issues that are not specifically and distinctly argued in the opening brief. *See Roley v. Google LLC*, 40 F.4th 903, 911 (9th Cir. 2022).

**AFFIRMED.**