

JAN 26 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GREGORY AHARONIAN,

Plaintiff - Appellant,

v.

MICHAEL B. MUKASEY, Attorney
General* ; et al.,

Defendants - Appellees.

No. 06-15361

D.C. No. CV-04-05190-MHP

MEMORANDUM**

Appeal from the United States District Court
for the Northern District of California
Marilyn H. Patel, District Judge, Presiding

Submitted January 13, 2009 ***

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

* Michael B. Mukasey is substituted for his predecessor, Alberto R. Gonzales, as Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

** This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

*** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). Accordingly, Aharonian's request for oral argument is denied.

Gregory Aharonian appeals pro se from the judgment dismissing his action alleging that copyright law is unconstitutional as applied to computer source code. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Buono v. Norton*, 371 F.3d 543, 546 (9th Cir. 2004) (standing); *Miller v. Yokohama Tire Corp.*, 358 F.3d 616, 619 (9th Cir. 2004) (failure to state a claim). We may affirm on any ground supported by the record, even if not relied upon by the district court. *Forest Guardians v. U.S. Forest Serv.*, 329 F.3d 1089, 1097 (9th Cir. 2003). We affirm.

We are not persuaded by Aharonian's contention that he has standing under Article III because he has not established that his alleged economic injury is traceable to any actions of the defendants. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992) (a plaintiff must show that his injury is "fairly ... trace[able] to the challenged action of the defendant").

The district court properly dismissed Aharonian's action without leave to amend because amendment of the complaint would be futile. *See Saul v. United States*, 928 F.2d 829, 843 (9th Cir. 1991).

AFFIRMED.