

JUN 07 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ANTHONY CHRISANTHIS,

Plaintiff - Appellant,

v.

BRIAN CASON; et al.,

Defendants - Appellees.

No. 09-15028

D.C. No. 3:08-cv-02472-WHA

MEMORANDUM*

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

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Anthony Chrisanthis appeals from the district court's judgment dismissing his action alleging that defendants retaliated against him for reporting unsafe workplace conditions in violation of the Federal Tort Claims Act ("FTCA") and

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

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

other laws . We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Mangano v. United States*, 529 F.3d 1243, 1245 n.2 (9th Cir. 2008), and we affirm.

The district court properly dismissed Chrisanthis's FTCA claims because defendants' alleged retaliatory conduct fell within the scope of the Civil Service Reform Act's prohibited personnel practices, and thus his claims were preempted. *See id.* at 1246.

We do not consider issues that were not raised in Chrisanthis's opening brief. *See Friends of Yosemite Valley v. Kempthorne*, 520 F.3d 1024, 1033 (9th Cir. 2008) (arguments not raised by a party in the opening brief are deemed abandoned).

Chrisanthis's contention regarding the U.S. Attorney's Office's representation of defendants Cason and Spivey is unpersuasive.

AFFIRMED.