

MAR 28 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ALLEN L. WISDOM,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>CENTERVILLE FIRE DISTRICT, INC.;</p> <p>et al.,</p> <p>Defendants - Appellees.</p>
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No. 10-35178

D.C. No. 1:07-cv-00095-EJL-LMB

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Idaho  
Edward J. Lodge, District Judge, Presiding

Submitted March 8, 2011\*\*

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

Allen L. Wisdom appeals pro se from the district court's order awarding costs and attorney's fees after the district court's grant of summary judgment in favor of Centerville Fire District, Inc. and ten others. We have jurisdiction under

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\* 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).

28 U.S.C. § 1291. We review for an abuse of discretion. *P.N. v. Seattle Sch. Dist. No. 1*, 474 F.3d 1165, 1168 (9th Cir. 2007). We affirm.

The district court did not abuse its discretion by awarding attorney’s fees and costs to defendants, pursuant to 42 U.S.C. § 1988, after concluding that Wisdom’s civil rights claims were frivolous. *See Franceschi v. Schwartz*, 57 F.3d 828, 832 (9th Cir. 1995). Contrary to Wisdom’s contentions, defendants were “prevailing parties” after summary judgment was granted in their favor. *See Buckhannon Bd. & Care Home, Inc. v. W. Va. Dep’t of Health & Human Res.*, 532 U.S. 598, 605 (2001) (a party is a “prevailing party” when, inter alia, they obtain “judgment on the merits”). Moreover, the record indicates that the district court considered Wisdom’s pro se status prior to awarding fees and costs.

The district court did not abuse its discretion by awarding taxable costs to defendants. *See Fed. R. Civ. P. 54(d)(1); Dist. Idaho Loc. Civ. R. 54.1.*

Wisdom’s remaining contentions are unpersuasive.

We do not consider matters that are not specifically and distinctly raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam).

We do not address any requests for attorney's fees for this appeal, as such requests must be made by separate motion. *See* 9th Cir. R. 39-1.6.

**AFFIRMED.**