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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RANDALL BROWN,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>R. L. CLARK, Corrections Officer; et al.,</p> <p>Defendants - Appellees.</p>

No. 08-15608

D.C. No. 2:05-cv-00538-RRB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Ralph R. Beistline, District Judge, Presiding

Submitted October 25, 2011**

Before: TROTT, GOULD, and RAWLINSON, Circuit Judges.

Randall Brown, a California state prisoner, appeals pro se from the jury verdict in his 42 U.S.C. § 1983 action alleging excessive force in violation of the Eighth Amendment. We have jurisdiction under 28 U.S.C. § 1291. We affirm.

Brown failed to raise in his opening brief, and has therefore waived, any

* 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).

challenge to the district court's judgment. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam) ("This court will not ordinarily consider matters on appeal that are not specifically and distinctly raised and argued in appellant's opening brief." (citation and internal quotation marks omitted)).

To the extent that Brown seeks to challenge the jury's verdict as being contrary to the evidence, we cannot review any challenge because Brown failed to include the relevant transcripts in the record of appeal as required by Fed. R. App. P. 10(b)(2). *See Syncom Capital Corp. v. Wade*, 924 F.2d 167, 169 (9th Cir. 1991) (per curiam).

AFFIRMED.