

JUL 12 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FREDERICK LOUIS WARD,

Plaintiff - Appellant,

v.

GEMMA GREENE WALDRON; et al.,

Defendants - Appellees.

No. 10-17685

D.C. No. 3:10-cv-00306-LRH-  
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MEMORANDUM\*

FREDERICK LOUIS WARD,

Plaintiff - Appellant,

v.

GOMEZ; et al.,

Defendants - Appellees.

No. 11-15476

D.C. No. 3:09-cv-00007-RCJ-VPC

Appeals from the United States District Court  
for the District of Nevada

Larry R. Hicks, District Judge, Presiding  
Robert C. Jones, Chief Judge, Presiding

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

Submitted June 26, 2012\*\*

Before: SCHROEDER, HAWKINS, and GOULD, Circuit Judges.

In these consolidated appeals, Frederick Louis Ward appeals pro se from the district court's judgments dismissing his actions arising out of alleged excessive force and denial of adequate medical care. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000) (dismissal under 28 U.S.C. § 1915A); *Knieval v. ESPN*, 393 F.3d 1068, 1072 (9th Cir. 2005) (dismissal under Fed. R. Civ. P. 12(b)(6)). We affirm.

The district court properly dismissed the claims against Waldron and the City of Spark defendants because Ward failed to allege facts sufficient to show that defendants conspired to violate Ward's constitutional rights or that Waldron was acting under color of state law. *See Olsen v. Idaho State Bd. of Med.*, 363 F.3d 916, 929 (9th Cir. 2004) ("To state a claim for conspiracy to violate constitutional rights, the plaintiff must state specific facts to support the existence of the claimed conspiracy." (citation and internal quotations omitted)); *Simmons v. Sacramento Cnty. Super. Ct.*, 318 F.3d 1156, 1161 (9th Cir. 2003) (conclusory allegations that attorney was conspiring with state officers are insufficient to support a § 1983

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\*\* The panel unanimously concludes these appeals are suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

claim).

The district court did not abuse its discretion by granting defendants' motion to strike documents Ward personally filed while he was still represented by counsel. *See Hambleton Bros. Lumber Co. v. Balkin Enters. Inc.*, 397 F.3d 1217, 1224 n.4 (9th Cir. 2005) (stating standard of review).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, nor arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam).

Ward's remaining contentions are unpersuasive.

All pending motions are denied.

**AFFIRMED.**