

AUG 20 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>SCOTT ALAN HUMINSKI,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>CITY OF SURPRISE, named as: Town of Surprise; et al.,</p> <p>Defendants - Appellees.</p> |
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No. 12-16395

D.C. No. 2:11-cv-00896-DGC

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
David G. Campbell, District Judge, Presiding

Submitted August 14, 2013\*\*

Before: SCHROEDER, GRABER, and PAEZ, Circuit Judges.

Scott Alan Huminski appeals pro se from the district court’s summary judgment in his 42 U.S.C. § 1983 action alleging constitutional violations in connection with an email he received from defendant Heredia. We have

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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).

jurisdiction under 28 U.S.C. § 1291. We review de novo. *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004). We affirm.

On appeal, Huminski contends that section 13-2921 of the Arizona Revised Statutes is unconstitutionally vague and overbroad. The district court did not err in declining to rule on this issue because it was not properly raised before the district court. *See Brazil v. U.S. Dep't of Navy*, 66 F.3d 193, 198-99 (9th Cir. 1995) (finding no error in district court's failure to address a claim in its summary judgment ruling where pro se plaintiff's pleadings gave defendants insufficient notice of the claim); *see also McHenry v. Renne*, 84 F.3d 1172, 1178 (9th Cir. 1996) (a complaint must make clear "who is being sued, for what relief, and on what theory, with enough detail to guide discovery"). Because the district court did not rule on this issue, we decline to consider it on appeal. *See Foti v. City of Menlo Park*, 146 F.3d 629, 638 (9th Cir. 1998) (courts of appeal generally do not consider an issue not addressed by the district court).

We do not consider Huminski's contentions, raised for the first time in his reply brief, concerning whether defendant Heredia's email constituted an order. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam).

Huminski's pending motions are denied.

**AFFIRMED.**