

SEP 25 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SUKIT KUMVACHIRAPITAG,

Plaintiff - Appellant,

v.

BARACK OBAMA, U.S. President,

Defendant - Appellee.

No. 14-17084

D.C. No. 4:14-cv-03182-KAW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Kandis A. Westmore, Magistrate Judge, Presiding**

Submitted September 21, 2015***

Before: REINHARDT, LEAVY, and BERZON, Circuit Judges.

Sukit Kumvachirapitag appeals pro se from the district court's judgment dismissing his action for lack of subject matter jurisdiction. We have jurisdiction

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

** Kumvachirapitag consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

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

under 28 U.S.C. § 1291. We review de novo. *Ass'n of Am. Med. Colls. v. United States*, 217 F.3d 770, 778 (9th Cir. 2000). We affirm.

The district court properly dismissed the action because Kumvachirapitag failed to allege claims under federal law or diversity of citizenship. *See* 28 U.S.C. §§ 1331, 1332(a); *see also Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006) (federal courts “have an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party”); *Ass'n of Am. Med. Colls.*, 217 F.3d at 778-79 (the party asserting jurisdiction bears the burden of establishing it).

We do not consider matters 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).

All pending motions are denied.

AFFIRMED.