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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALONZO TREVON TALLEY,

Plaintiff - Appellant,

v.

CANTU; et al.,

Defendants - Appellees.

No. 15-17238

D.C. No. 1:14-cv-00781-LJO-DLB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O'Neill, District Judge, Presiding

Submitted February 24, 2016**

Before: LEAVY, FERNANDEZ, and RAWLINSON, Circuit Judges.

California state prisoner Alonzo Trevon Talley appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging deliberate indifference to his serious medical needs and a state law negligence claim. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under 28

* 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).

U.S.C. §§ 1915(e) and 1915A for failure to state a claim. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000); *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order). We affirm.

Talley has failed to address in his opening brief the district court's dismissal of the claims alleged in his operative complaint, and has therefore waived his appeal of the district court's dismissal order. *See Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) (“[W]e will not consider any claims that were not actually argued in appellant’s opening brief.”); *Acosta-Huerta v. Estelle*, 7 F.3d 139, 144 (9th Cir. 1993) (issues not supported by argument in pro se appellant’s opening brief are waived).

The district court declined to exercise supplemental jurisdiction over the state law negligence claim, and we construe the dismissal of this claim to be without prejudice. *See Gini v. Las Vegas Metro. Police Dep’t*, 40 F.3d 1041, 1046 (9th Cir. 1994).

Talley’s motion for appointment of counsel, filed on November 27, 2015, is denied.

AFFIRMED.