

AUG 23 2016

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MATTHEW ROBERT YOUNG,

Plaintiff-Appellant,

v.

STATE OF OREGON; et al.,

Defendants-Appellees.

No. 15-35412

D.C. No. 6:13-cv-02039-TC

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Oregon  
Ann L. Aiken, District Judge, Presiding

Submitted August 16, 2016\*\*

Before: O'SCANNLAIN, LEAVY, and CLIFTON, Circuit Judges.

Matthew Robert Young appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging various claims relating to his conditions of confinement. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Fed. R. Civ. P. 12(b)(6) for failure to state a

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

claim, *Cholla Ready Mix, Inc. v. Civish*, 382 F.3d 969, 973 (9th Cir. 2004), and we affirm.

Contrary to Young's contentions, defendants' motion to dismiss for failure to state a claim was a procedurally proper response to Young's second amended complaint and the district court properly ruled on it. *See* Fed. R. Civ. P. 12(b)(6) (the defense of failure to state a claim may be raised by motion, rather than a responsive pleading).

We do not address the merits of the district court's order dismissing Young's claims because Young has failed to address the substance of the district court's order in his opening brief. *See Brownfield v. City of Yakima*, 612 F.3d 1140, 1149 n.4 (9th Cir. 2010) ("We review only issues [that] are argued specifically and distinctly in a party's opening brief.").

Young's Motion to Add the Missing Judgment Order as Appendix to the Pro Se Brief, filed on November 2, 2015, is denied as moot.

**AFFIRMED.**