

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 22 2016

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

HENRY LAGMAY,

Plaintiff-Appellant,

v.

SHELLEY NOBRIGA; et al.,

Defendants-Appellees.

No. 16-15856

D.C. No. 1:15-cv-00463-LEK-
KJM

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
Leslie E. Kobayashi, District Judge, Presiding

Submitted December 14, 2016**

Before: WALLACE, LEAVY, and FISHER, Circuit Judges.

Henry Lagmay, a Hawaii state prisoner, appeals pro se the district court's judgment dismissing for failure to state a claim his 42 U.S.C. §§ 1983 and 1985 action alleging various constitutional violations. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Hamilton v. Brown*, 630 F.3d 889, 892 (9th

* 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).

Cir. 2011) (dismissal under 28 U.S.C. § 1915A); *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order) (dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii)), and we affirm.

Lagmay failed to address in his opening brief the district court’s dismissal of his action, and has therefore waived his appeal of the district court’s 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.”).

We reject as meritless Lagmay’s contention that the district court had jurisdiction to consider his second and third post-judgment motions. *See Natural Res. Def. Council, Inc. v. Sw. Marine Inc.*, 242 F.3d 1163, 1166 (9th Cir. 2001) (“Once a notice of appeal is filed, the district court is divested of jurisdiction over the matters being appealed.”).

We do not consider arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.