

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 22 2017

FOR THE NINTH CIRCUIT

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

GAVIN B. DAVIS,

Plaintiff-Appellant,

v.

JOHN GREGORY UNRUH, an individual;
et al.,

Defendants-Appellees.

No. 16-56306

D.C. No. 3:16-cv-00897-BTM-
WVG

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Barry Ted Moskowitz, Chief Judge, Presiding

Submitted February 14, 2017**

Before: GOODWIN, FARRIS, and FERNANDEZ, Circuit Judges.

Gavin B. Davis appeals pro se from the district court's judgment in his action alleging federal and state law violations. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a dismissal for failure to

* 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). Accordingly, Davis's request for oral argument set forth in the opening brief is denied.

comply with Fed. R. Civ. P. 8. We review de novo a dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii). *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998).

We affirm.

The district court did not abuse its discretion by dismissing Davis’s action for failure to comply with Fed. R. Civ. P. 8. Despite the district court’s warning, Davis’s amended complaint consisted of 159 pages -- 58 pages more than the original complaint -- as well as 172 pages of exhibits. *See McHenry v. Renne*, 84 F.3d 1172, 1177 (9th Cir. 1996) (affirming dismissal of complaint that was “argumentative, prolix, replete with redundancy, and largely irrelevant”).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009); *Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999) (“[O]n appeal, arguments not raised by a party in its opening brief are deemed waived.”).

All pending motions and requests are denied.

AFFIRMED.