

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 16 2017

FOR THE NINTH CIRCUIT

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

ERIC PIERSON,

Plaintiff-Appellant,

v.

COUNTY OF STOREY, a political
subdivision of the State of Nevada; et al.,

Defendants-Appellees.

No. 15-15646

D.C. No. 3:12-cv-00598-MMD-
VPC

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Miranda M. Du, District Judge, Presiding

Submitted March 8, 2017**

Before: LEAVY, W. FLETCHER, and OWENS, Circuit Judges.

Eric Pierson appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging federal and state law claims arising from the filing of a criminal complaint. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Haupt v. Dillard*, 17 F.3d 285, 287 (9th Cir. 1994). We affirm.

* 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).

The district court properly granted summary judgment on Pierson’s federal and state law malicious prosecution claims because Pierson failed to raise a genuine dispute of material fact as to whether defendants brought the action without probable cause. *See id.* at 290 (explaining when a plaintiff is collaterally estopped from relitigating a probable cause determination made at preliminary hearing); *Lester v. Buchanan*, 929 P.2d 910, 912 (Nev. 1996) (elements of a malicious prosecution claim under Nevada law).

We do not consider the district court’s dismissal of Pierson’s First Amendment, Fourth Amendment, and other state law claims because Pierson raises only new arguments on appeal concerning the district court’s grounds for dismissal and has therefore waived his appeal of the district court’s ruling on these claims. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (we do not consider arguments and allegations raised for the first time on appeal); *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.”).

We do not consider documents not filed with the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990) (“Documents or facts not presented to the district court are not part of the record on appeal.”).

Pierson’s motion to reconsider (Docket Entry No. 7) is denied.

AFFIRMED.