

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 21 2017

FOR THE NINTH CIRCUIT

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

CARLOS ESPINO,

Plaintiff-Appellant,

v.

WALGREEN CO.; et al.,

Defendants-Appellees.

No. 16-15778

D.C. No. 2:15-cv-00423-MCE-AC

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, Jr., District Judge, Presiding

Submitted March 8, 2017**

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

Carlos Espino appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging various federal claims arising from his medical care. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's dismissal under Federal Rule of Civil Procedure 12(b)(6). *Hebbe v.*

* 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).

Piler, 627 F.3d 338, 341 (9th Cir. 2010). We affirm.

We do not consider the merits of the district court’s dismissal of Espino’s action because Espino does not raise any argument in his opening brief concerning the district court’s dismissal of any claim alleged in his operative complaint. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (we do not consider matters not specifically and distinctly raised and argued in the opening brief); *Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999) (“[A]rguments not raised by a party in its opening brief are deemed waived.”).

Appellees’ motions for summary affirmance (Docket Entry Nos. 9, 10, 12, 14) are denied as unnecessary.

AFFIRMED.