

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 23 2017

FOR THE NINTH CIRCUIT

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

PAUL BUSH,

Plaintiff-Appellant,

v.

ROBERT LEE POMMER; SHARON
POMMER,

Defendants-Appellees.

No. 16-15019

D.C. No. 2:14-cv-00323-JAT

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
James A. Teilborg, District Judge, Presiding

Submitted March 8, 2017**

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

Paul Bush appeals pro se from the district court's summary judgment in his action alleging federal and state law claims arising from a property dispute. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Doe v. Abbott Labs.*, 571 F.3d 930, 933 (9th Cir. 2009). 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 Bush's trespass claim because Bush failed to raise a genuine dispute of material fact as to whether he had possession of the land at issue. *See MacNeil v. Perkins*, 324 P.2d 211, 216 (Ariz. 1958) (under Arizona law, "[a] trespasser is one who does an unlawful act or a lawful act in an unlawful manner to the injury of the person or property of another" (citation and internal quotation marks omitted)).

We do not consider whether the district court erred in granting summary judgment on Bush's remaining claims because Bush failed to raise them in his opening brief. *See Greenwood v. FAA*, 28 F.3d 971, 978 (9th Cir. 1994) (matter not specifically and distinctly argued in opening brief is waived on review).

Bush's requests for oral argument and to strike defendants' motion for summary judgment from the record, set forth in his opening brief, are denied.

AFFIRMED.