

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 30 2017

FOR THE NINTH CIRCUIT

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

AVINASH B. KULKARNI,

Plaintiff-Appellant,

v.

UNITED STATES DEPARTMENT OF
STATE,

Defendant-Appellee.

No. 14-55132

D.C. No. 8:12-cv-00980-JLS-AN

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Josephine L. Staton, District Judge, Presiding

Submitted June 26, 2017**

Before: PAEZ, BEA, and MURGUIA, Circuit Judges.

Avinash B. Kulkarni appeals pro se from the district court's summary judgment in his Freedom of Information Act ("FOIA") action arising out of his request for documents relating to his son's passport application. We have

* 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).

jurisdiction under 28 U.S.C. § 1291. We review de novo. *Animal Legal Def. Fund v. U.S. Food & Drug Admin.*, 836 F.3d 987, 990 (9th Cir. 2016) (en banc). We affirm.

The district court properly granted summary judgment because Kulkarni failed to raise a genuine dispute of material fact as to whether defendant did not establish that the withheld documents were exempt from disclosure under Exemption 6 of FOIA. *See* 5 U.S.C. § 552(b)(6) (explaining that FOIA does “not apply to . . . personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy”); *Cameranesi v. U.S. Dep’t of Def.*, 856 F.3d 626, 637-39 (9th Cir. 2017) (in determining whether Exemption 6 applies, courts first “evaluate the personal privacy interest at stake to ensure that disclosure implicates a personal privacy interest that is nontrivial or more than de minimis,” and then balance any such privacy interest with the “public interest in disclosure” (citation, internal quotation marks, and alternations omitted)). To the extent that Kulkarni challenges the sufficiency of the search for documents, we reject Kulkarni’s challenge as unsupported by the record. *See Hamdan v. U.S. Dep’t of Justice*, 797 F.3d 759, 770-71 (9th Cir. 2015) (setting forth requirements for demonstrating adequacy of search for documents).

The district court did not abuse its discretion in denying Kulkarni's motion for sanctions because Kulkarni failed to identify any conduct warranting sanctions. *See Lahiri v. Universal Music & Video Distrib. Corp.*, 606 F.3d 1216, 1218 (9th Cir. 2010) (setting forth standard of review).

We reject as meritless Kulkarni's contention that the district court committed legal error in not addressing his challenge to the then-operative FOIA regulations.

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).

Kulkarni's motion to review and enjoin (Docket Entry No. 29) and motion for sanctions (Docket Entry No. 32) are denied.

AFFIRMED.