

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 1 2017

FOR THE NINTH CIRCUIT

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

WILLIAM FLETCHER,

Plaintiff-Appellant,

v.

CORIZON HEALTH SERVICES, and
employees; et al.,

Defendants-Appellees.

No. 16-36073

D.C. No. 1:14-cv-00532-BLW

MEMORANDUM*

Appeal from the United States District Court
for the District of Idaho
B. Lynn Winmill, Chief Judge, Presiding

Submitted October 23, 2017**

Before: McKEOWN, WATFORD, and FRIEDLAND, Circuit Judges.

William Fletcher, an Idaho state prisoner, appeals pro se from the district court's summary judgment for failure to exhaust administrative remedies in his 42 U.S.C. § 1983 action alleging constitutionally inadequate dental care. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Toguchi v. Chung*, 391

* 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).

F.3d 1051, 1056 (9th Cir. 2004). We affirm.

The district court properly granted summary judgment because Fletcher did not exhaust his claims prior to filing this action and failed to raise a genuine dispute of material fact as to whether there was “something in his particular case that made the existing and generally available administrative remedies effectively unavailable to him.” *Albino v. Baca*, 747 F.3d 1162, 1172 (9th Cir. 2014); *Woodford v. Ngo*, 548 U.S. 81, 88 (2006) (to properly exhaust, “a prisoner must complete the administrative review process in accordance with the applicable procedural rules”).

The district court did not abuse its discretion in granting defendants’ motion for reconsideration of the district court’s April 8, 2016 order, and in denying Fletcher’s motion for reconsideration of the same order, because defendants demonstrated a proper basis for relief, whereas Fletcher failed to do so. *See Sch. Dist. No. 1J, Multnomah Cty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth standard of review and grounds for reconsideration under Fed. R. Civ. P. 59(e)).

We lack jurisdiction to consider the district court’s order denying Fletcher’s motion for reconsideration of the district court’s November 29, 2016 order because Fletcher failed to amend his notice of appeal or file a new notice of appeal after the motion for reconsideration was denied. *See Fed. R. App. P. 4(a)(1)(A)* (notice of

appeal must be filed within 30 days after entry of the judgment or order appealed from).

We do not consider matters not specifically and distinctly raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

Fletcher's motion requesting emergency relief (Docket Entry No. 24) is denied.

AFFIRMED.