

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 16 2018

FOR THE NINTH CIRCUIT

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

RONALD MARSHALL,

No. 17-16804

Plaintiff-Appellant,

D.C. No. 4:15-cv-00141-JAS

v.

MEMORANDUM*

ANN ASH, MD; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Arizona
James Alan Soto, District Judge, Presiding

Submitted April 11, 2018**

Before: SILVERMAN, PAEZ, and OWENS, Circuit Judges.

Federal prisoner Ronald Marshall appeals pro se from the district court's summary judgment in his action brought under *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), alleging deliberate indifference to his serious medical needs. We have jurisdiction under 28

* 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).

U.S.C. § 1291. We review de novo. *Moore v. Glickman*, 113 F.3d 988, 989 (9th Cir. 1997). We affirm.

The district court properly granted summary judgment because Marshall failed to raise a genuine dispute of material fact as to whether defendant Ash was deliberately indifferent in treating Marshall's toe and foot. *See Toguchi v. Chung*, 391 F.3d 1051, 1057-60 (deliberate indifference is a high legal standard; medical malpractice, negligence, or a difference in medical opinion concerning the course of treatment does not amount to deliberate indifference).

We reject Marshall's contention as unsupported by the record that the district court made an improper credibility determination.

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).

AFFIRMED.