NOT FOR PUBLICATION

FILED

JUN 14 2019

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SIR GIORGIO SANFORD CLARDY, Plaintiff-Appellant, v. GARTH GULICK, Dr.; et al., Defendants-Appellees.	No. 18-35826 D.C. No. 2:17-cv-00503-CL MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael H. Simon, District Judge, Presiding

Submitted June 11, 2019**

Before: CANBY, GRABER, and MURGUIA, Circuit Judges.

Sir Giorgio Sanford Clardy, an Oregon 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 deliberate indifference. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a ruling

* 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).

on a motion to strike. *Fed. Sav. & Loan Ins. Corp. v. Gemini Mgmt*., 921 F.2d 241, 244 (9th Cir. 1990). We affirm.

The district court did not abuse its discretion by denying Clardy's motion to strike because the answer was timely served. *See* Fed. R. Civ. P. 6(b)(1)(A) (the district court may modify the time by which any act required by the Federal Rules of Civil Procedure is due); Fed. R. Civ. P. 12(a)(1) (discussing time limits for filing responsive pleadings); *Tindall v. First Solar Inc*., 892 F.3d 1043, 1048 (9th Cir. 2018) (the district court may grant motions for an extension of time upon a finding of good cause).

We do not consider matters, including the basis for summary judgment, 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.