

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 16 2018

FOR THE NINTH CIRCUIT

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

MICHAEL B. WILLIAMS,

No. 18-15621

Plaintiff-Appellant,

D.C. No. 1:16-cv-01940-LJO-MJS

v.

MEMORANDUM*

SANJEEV BATRA, Doctor at Coalinga
State Hospital,

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O'Neill, Chief Judge, Presiding

Submitted July 10, 2018**

Before: CANBY, W. FLETCHER, and CALLAHAN, Circuit Judges.

Michael B. Williams, a civil detainee under California's Sexually Violent Predator Act, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging constitutional violations. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Hamilton v. Brown*, 630 F.3d 889, 892

* 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).

(9th Cir. 2011) (dismissal under 28 U.S.C. § 1915A); *Huftile v. Miccio–Fonseca*, 410 F.3d 1136, 1138 (9th Cir. 2005) (dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii)). We affirm.

The district court properly dismissed Williams’s action because Williams failed to allege facts sufficient to state any plausible claim. *See Hebbe v. Pliler*, 627 F.3d 338, 341-42 (9th Cir. 2010) (although pro se pleadings are liberally construed, a plaintiff must allege facts sufficient to state a plausible claim); *Rhodes v. Robinson*, 408 F.3d 559, 567-68 (9th Cir. 2005) (elements of a retaliation claim under § 1983); *Jones v. Blanas*, 393 F.3d 918, 933 (9th Cir. 2004) (discussing due process protections for civil detainees); *Mitchell v. Dupnik*, 75 F.3d 517, 523-26 (9th Cir. 1996) (elements for a procedural due process claim in the pre-trial detainee context).

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).

We do not consider documents not filed with the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990) (“Documents or facts not presented to the district court are not part of the record on appeal.”).

Williams's request that his pending appeals, Case Nos. 18-15437 and 18-15621, be assigned to the same merits panel (Docket Entry No. 4) is granted.

AFFIRMED.