

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 26 2019

FOR THE NINTH CIRCUIT

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

RICHARD LOUIS ARNOLD PHILLIPS,

No. 18-16790

Plaintiff-Appellant,

D.C. No. 5:17-cv-00875-EJD

v.

MEMORANDUM*

KEVIN CHAPPELL, Warden, San Quentin
State Prison; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of California
Edward J. Davila, District Judge, Presiding

Submitted September 18, 2019**

Before: FARRIS, TASHIMA, and NGUYEN, Circuit Judges.

California state prisoner Richard Louis Arnold Phillips appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging federal claims in connection with his confinement in state prison. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's

* 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).

dismissal under 28 U.S.C. § 1915A. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). We affirm.

The district court properly dismissed Phillips's claim premised on his allegedly illegal confinement in state prison as barred by *Heck v. Humphrey*, 512 U.S. 477 (1994), because success on this claim would necessarily demonstrate the invalidity of the duration of his confinement. *See Wilkinson v. Dotson*, 544 U.S. 74, 78 (2005) (“[A] prisoner in state custody cannot use a § 1983 action to challenge the fact or duration of his confinement.” (citation and internal quotation marks omitted)).

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).

Defendants' motion to take judicial notice (Docket Entry No. 19) is denied as unnecessary.

AFFIRMED.