

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 27 2021

FOR THE NINTH CIRCUIT

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

JOHN ROBERT DEMOS, Jr.,

Plaintiff-Appellant,

v.

WILLIAM J. SMITH, Medical Director,
Washington State Penitentiary; et al.,

Defendants-Appellees.

No. 20-35421

D.C. No. 4:20-cv-05071-TOR

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Thomas O. Rice, District Judge, Presiding

Submitted May 18, 2021**

Before: CANBY, FRIEDLAND, and VANDYKE, Circuit Judges.

Washington state prisoner John Robert Demos, Jr. appeals pro se from the district court's order dismissing 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 district court's dismissal pursuant to a contempt order. *In Re*

* 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).

Fillbach, 223 F.3d 1089, 1090 (9th Cir. 2000). We affirm.

The district court did not abuse its discretion by dismissing Demos's action because Demos's action was within the scope of the district court's contempt order. *See Demos v. U.S. Dist. Ct. for East. Dist. of Wash.*, 925 F.2d 1160, 1161 (9th Cir. 1991) (confirming that the Eastern and Western Districts of Washington have entered final prefilings orders against Demos restricting Demos's permission to file certain actions); *Demos v. McNichols*, No. 91-CV-00027-LRS (E.D. Wash. Aug. 26, 1991) (issuing contempt order barring Demos from initiating actions in the Eastern District of Washington); *see also In Re Fillbach*, 223 F.3d at 1091 (litigant may not avoid a vexatious litigant order by filing suit in a different venue).

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 presented to the district court because they are not part of the record on appeal. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990).

AFFIRMED.