

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 22 2021

FOR THE NINTH CIRCUIT

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

FREDERICK E. LEONARD,

Plaintiff-Appellant,

v.

M. THOMPSON; et al.,

Defendants-Appellees.

No. 20-16835

D.C. No. 2:16-cv-02767-KJM-DB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Kimberly J. Mueller, District Judge, Presiding

Submitted July 19, 2021**

Before: SCHROEDER, SILVERMAN, and MURGUIA, Circuit Judges.

Former pretrial detainee Frederick E. Leonard appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging Fourteenth Amendment failure-to-protect and due process claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the 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).

decision on cross-motions for summary judgment. *Guatay Christian Fellowship v. County of San Diego*, 670 F.3d 957, 970 (9th Cir. 2011). We affirm.

The district court properly granted summary judgment for defendant Thompson on Leonard's failure-to-protect claim against defendant Thompson because, under any potentially applicable standard, Leonard failed to raise a genuine dispute of material fact as to whether Thompson's alleged conduct caused Leonard's injuries. *See Harper v. City of Los Angeles*, 533 F.3d 1010, 1026 (9th Cir. 2008) (to sustain a § 1983 claim, plaintiff must establish that defendant's conduct was the cause-in-fact and proximate cause of the claimed injury); *see also Scott v. Harris*, 550 U.S. 372, 380 (2007) (court should not adopt version of the facts that is blatantly contradicted by the record).

In his opening brief, Leonard fails to address the dismissal of defendant Metzger and the grant of summary judgment for defendant Clemente and has therefore waived his challenges to the district court's orders regarding those defendants. *See Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) ("[W]e will not consider any claims that were not actually argued in appellant's opening brief."); *Acosta-Huerta v. Estelle*, 7 F.3d 139, 144 (9th Cir. 1993) (issues not supported by argument in pro se appellant's opening brief are waived).

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).

Leonard's motion to object (Docket Entry No. 20) is denied.

AFFIRMED.