

AUG 6 2021

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TIMOTHY JOSEPH MCILWAIN,

Plaintiff-Appellant,

v.

JAMES NATHANIEL BROWN, AKA
Jim Brown,

Defendant-Appellee.

No. 20-55424

D.C. No.
2:18-cv-05275-DMG-SK

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dolly M. Gee, District Judge, Presiding

Submitted August 4, 2021**
San Francisco, California

Before: THOMAS, Chief Judge, and HAWKINS and McKEOWN, Circuit Judges.

Timothy McIlwain, an attorney, appeals pro se from the district court's judgment dismissing his diversity action against James Brown. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* 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).

McIlwain does not challenge—and has therefore waived review of—the district court’s dismissal of his lawsuit on the independent, alternative ground that he failed to timely oppose dismissal in violation of the Central District of California’s local rules. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (declining to consider matters “not specifically and distinctly raised” in an opening brief (citation omitted)); *see also* C.D. Cal. R. 7-9 (setting forth deadline for opposition papers), 7-12 (providing that failure to timely oppose motion is ground for granting motion); *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (“Failure to follow a district court’s local rules is a proper ground for dismissal.”).

We likewise decline to review the district court’s denial of leave to amend because McIlwain’s briefing on appeal lacks any argument on that issue. *See Nev. Dep’t of Corr. v. Greene*, 648 F.3d 1014, 1020 (9th Cir. 2011) (concluding that a pro se appellant waived issues not supported by argument in opening brief).

AFFIRMED.