

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 25 2021

FOR THE NINTH CIRCUIT

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

ROBERT DIXON,

Plaintiff-Appellant,

v.

COUNTY OF SONOMA; ROBERT
GIORDANO,

Defendants-Appellees.

No. 20-16620

D.C. No. 3:18-cv-07137-EMC

MEMORANDUM*

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

Submitted August 17, 2021**

Before: SILVERMAN, CHRISTEN, and LEE, Circuit Judges.

Robert Dixon appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging a policy of inadequate housing under the Fourteenth Amendment while he was a pre-commitment civil detainee. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Jones v. Blanas*, 393

* 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).

F.3d 918, 926 (9th Cir. 2004). We affirm.

The district court properly granted summary judgment because Dixon failed to raise a genuine dispute of material fact as to whether the County of Sonoma had a policy or custom of violating the substantive due process rights of civil detainees in the County's Main Adult Detention Facility. *See Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 694 (1978) (municipal liability under § 1983 requires execution of policy or custom that inflicts plaintiff's constitutional injury); *Jones*, 393 F.3d at 932 (a pre-commitment detainee is "entitled to protections at least as great as those afforded to a civilly committed individual and at least as great as those afforded to an individual accused but not convicted of a crime"); *Trevino v. Gates*, 99 F.3d 911, 918 (9th Cir. 1996) ("Liability for improper custom may not be predicated on isolated or sporadic incidents; it must be founded upon practices of sufficient duration, frequency and consistency that the conduct has become a traditional method of carrying out policy.").

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).

Dixon's motion for appointment of counsel (Docket Entry No. 16) is denied.

AFFIRMED.