

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 19 2022

FOR THE NINTH CIRCUIT

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

RAFAEL MOISES SUAREZ,

No. 21-15537

Plaintiff-Appellant,

D.C. No. 4:20-cv-00317-RCC

v.

MEMORANDUM*

DOUGLAS DUCEY; STATE OF
ARIZONA; UNKNOWN PARTY, named as
John Doe #1 Etc.; DEPARTMENT OF
CORRECTIONS,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Arizona
Raner C. Collins, District Judge, Presiding

Submitted April 11, 2022**

Before: McKEOWN, CHRISTEN, and BRESS, Circuit Judges.

Rafael Moises Suarez appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging federal and state law violations stemming from Suarez's arrest and conviction in 1997. We have jurisdiction under

* 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).

28 U.S.C. § 1291. We review de novo a dismissal under Fed. R. Civ. P. 12(b)(6). *Hebbe v. Pliler*, 627 F.3d 338, 341 (9th Cir. 2010). We affirm.

Because Suarez failed to allege facts that could establish an exception under *Ex Parte Young*, the district court properly dismissed Suarez’s claims as barred by the Eleventh Amendment. *See Seven Up Pete Venture v. Schweitzer*, 523 F.3d 948, 952-53 (9th Cir. 2008) (describing Eleventh Amendment immunity and the *Ex Parte Young* exception); *Snoeck v. Brussa*, 153 F.3d 984, 986-87 (9th Cir. 1998) (“[A] generalized duty to enforce state law or general supervisory power over the persons responsible for enforcing the challenged provision will not subject an official to suit.” (citation and internal quotation marks omitted)).

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).

AFFIRMED.