

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 25 2022

FOR THE NINTH CIRCUIT

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

OLEG CHURYUMOV,

Plaintiff-Appellant,

v.

US CITIZENSHIP AND IMMIGRATION
SERVICES,

Defendant-Appellee.

No. 19-36094

D.C. No. 2:18-cv-00841-RAJ

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Richard A. Jones, District Judge, Presiding

Submitted May 17, 2022**

Before: CANBY, TASHIMA, and NGUYEN Circuit Judges.

Oleg Churyumov appeals pro se from the district court’s summary judgment in his action challenging the denial of his petition for an “extraordinary ability” employment visa. We have jurisdiction under 28 U.S.C. § 1291. We review de

* 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). Churyumov’s request for oral argument, set forth in the opening brief, is denied.

novo the entry of summary judgment, and will set aside an agency decision only if it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” *Family Inc. v. USCIS*, 469 F.3d 1313, 1315 (9th Cir. 2006). We affirm.

The district court did not err in granting summary judgment for United States Citizenship and Immigration Services (“USCIS”) because USCIS properly considered the evidence Churyumov submitted with his petition and concluded that he did not meet the high standard for an “extraordinary ability” employment visa. *See Kazarian v. USCIS*, 596 F.3d 1115, 1119-21 (9th Cir. 2010) (explaining that once a petitioner submits the required evidence, USCIS determines whether that evidence demonstrates both “a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the[ir] field of endeavor” and “sustained national or international acclaim” (citation and internal quotation marks)).

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 reject as meritless Churyumov’s contentions that the process by which USCIS considered his employment visa was unconstitutionally vague or arbitrary.

AFFIRMED.