

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 1 2022

FOR THE NINTH CIRCUIT

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

JOE STEPHENS,

Plaintiff-Appellant,

v.

STATE OF ALASKA, Alaska Division of
Elections,

Defendant-Appellee.

No. 22-35181

D.C. No. 1:21-cv-00018-RRB

MEMORANDUM*

Appeal from the United States District Court
for the District of Alaska
Ralph R. Beistline, District Judge, Presiding

Submitted May 17, 2022**

Before: CANBY, TASHIMA, and NGUYEN, Circuit Judges.

Joe Stephens appeals pro se from the district court's judgment dismissing his action for lack of subject matter jurisdiction. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Carolina Cas. Ins. Co. v. Team Equip., Inc.*, 741

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

F.3d 1082, 1086 (9th Cir. 2014). We vacate and remand.

The district court dismissed for lack of subject matter jurisdiction because it concluded that in his complaint and response to the order to show cause, Stephens failed to describe a violation of federal law, and instead raised a question of state law best addressed by a state court. However, Stephens alleged that the refusal by the Alaska Division of Elections to include his middle names on the ballot violated the First and Fourteenth Amendments. Because the district court did not explain why the First and Fourteenth Amendment claims failed to confer subject matter jurisdiction, we vacate the judgment and remand for further proceedings.

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

All pending motions are denied.

VACATED AND REMANDED.