

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 19 2023

FOR THE NINTH CIRCUIT

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

ALFRED GREEN,

Plaintiff-Appellant,

v.

CORIZON HEALTH SERVICES; et al.,

Defendants-Appellees.

No. 21-16571

D.C. No. 4:18-cv-00068-RM

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona

Rosemary Márquez, District Judge, Presiding

Submitted September 12, 2023**

Before: CANBY, CALLAHAN, and OWENS, Circuit Judges.

Arizona state prisoner Alfred Green appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging deliberate indifference to his serious medical needs. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's ruling on cross-motions for summary judgment.

* 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).

Hamby v. Hammond, 821 F.3d 1085, 1090 (9th Cir. 2016). We may affirm on any basis supported by the record. *Thompson v. Paul*, 547 F.3d 1055, 1058-59 (9th Cir. 2008). We affirm.

Summary judgment was proper on Green’s claim for injunctive relief requesting treatment for nerve damage because Green failed to raise a genuine dispute of material fact as to whether, at the time of summary judgment, defendants were acting with deliberate indifference and were likely to continue doing so. *See Snow v. McDaniel*, 681 F.3d 978, 991 (9th Cir. 2012) (discussing when summary judgment is proper on claims seeking injunctive relief where an inmate raises ongoing complaints of deliberate indifference), *overruled in part on other grounds by Peralta v. Dillard*, 744 F.3d 1076 (9th Cir. 2014) (en banc).

The district court did not abuse its discretion in denying Green’s post-judgment motion because Green failed to establish any basis for relief. *See Coastal Transfer Co. v. Toyota Motor Sales, U.S.A.*, 833 F.2d 208, 211 (9th Cir. 1987) (setting forth standard of review and grounds for relief under Federal Rule of Civil Procedure 60(b)(2)).

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 do not consider documents not presented to the district court. *See United States v. Elias*,

921 F.2d 870, 874 (9th Cir. 1990).

Green's motions to file an additional reply brief (Docket Entry Nos. 60, 66) are granted. The Clerk will file the reply brief received at Docket Entry No. 62.

Green's motion to supplement the record (Docket Entry No. 51) and Green's request that defendants file additional briefs, set forth in Green's supplemental brief, are denied.

This case remains administratively closed as to Corizon Health, Inc. *See* Docket Entry Nos. 78, 79. We therefore do not consider Green's contentions regarding the district court's summary judgment in favor of Corizon.

AFFIRMED.