

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 15 2023

FOR THE NINTH CIRCUIT

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

RAMORI VAUGHN ROGERS, Sr.,

No. 22-15939

Plaintiff-Appellant,

D.C. No. 4:21-cv-00206-JAS

v.

MEMORANDUM*

GALLION, Unknown; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Arizona
James Alan Soto, District Judge, Presiding

Submitted December 12, 2023**

Before: WALLACE, LEE, and BUMATAY, Circuit Judges.

Federal prisoner Ramori Vaughn Rogers, Sr., appeals pro se from the district court's summary judgment for failure to exhaust administrative remedies in his action brought under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), alleging constitutional claims. We have

* 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).

jurisdiction under 28 U.S.C. § 1291. We review de novo. *Albino v. Baca*, 747 F.3d 1162, 1168 (9th Cir. 2014) (en banc). We affirm.

The district court properly granted summary judgment because Rogers failed to exhaust his administrative remedies and failed to raise a genuine dispute of material fact as to whether administrative remedies were effectively unavailable. *See id.* at 1172 (setting forth exhaustion framework under the Prison Litigation Reform Act (“PLRA”)); *see also Ross v. Blake*, 578 U.S. 632, 643-44 (2016) (describing limited circumstances in which administrative remedies are unavailable); *Porter v. Nussle*, 534 U.S. 516, 524 (2002) (requiring PLRA exhaustion for federal prisoners’ *Bivens* actions).

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).

All pending motions and requests are denied.

AFFIRMED.