

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 29 2026

FOR THE NINTH CIRCUIT

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

JIM MUNENE,

Plaintiff - Appellant,

v.

MARKWAYNE MULLIN, Secretary,  
Department of Homeland Security,

Defendant - Appellee.

No. 24-5559

D.C. No. 4:19-cv-00220-RM

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
Rosemary Márquez, District Judge, Presiding

Submitted May 26, 2026\*\*

Before: S.R. THOMAS, MILLER, and H.A. THOMAS, Circuit Judges.

Jim Munene appeals pro se from the district court's summary judgment in his federal employment discrimination action. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a denial of leave to amend

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\* 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).

the complaint. *Ahlmeyer v. Nev. Sys. of Higher Educ.*, 555 F.3d 1051, 1055 (9th Cir. 2009). We affirm.

The district court did not abuse its discretion in denying Munene’s request to amend the complaint to add a claim concerning a 2014 verbal admonishment because Munene failed to administratively exhaust his claim and therefore amendment would have been futile. *See B.K.B. v. Maui Police Dep’t*, 276 F.3d 1091, 1099-1100 (9th Cir. 2002) (explaining that a plaintiff must administratively exhaust his claims before the EEOC and that a court may consider allegations or claims that are like or reasonably related to the EEOC charge, and setting forth factors to determine if the requirement is met), *abrogated on other grounds by Fort Bend County v. Davis*, 587 U.S. 541 (2019); *Ong v. Cleland*, 642 F.2d 316, 320 (9th Cir. 1981) (concluding that a claim was not like or reasonably related in part because the plaintiff had not attempted to amend her administrative complaint to add events that occurred after it was lodged).

We do not consider the district court’s summary judgment on Munene’s claim of discrimination and retaliation in the fiscal year 2014 performance bonus because Munene does not challenge it in his opening brief. *See Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) (explaining that “we will not consider any claims that were not actually argued in appellant’s opening brief”); *Acosta-Huerta v. Estelle*, 7 F.3d 139, 144 (9th Cir. 1993) (explaining that

issues not supported by argument in pro se appellant's opening brief are deemed abandoned).

**AFFIRMED.**