

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 1 2026

FOR THE NINTH CIRCUIT

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

DURRELL ANTHONY PUCKETT,

Plaintiff - Appellant,

v.

D. MORENO; B. HAYNES; Lieutenant
SMITH; C. WILLIAMS, Correctional
Officer; S. ARRIAGA; UNKNOWN
PARTY, Fire Chief, CSP Sacramento Fire
Department,

Defendants - Appellees.

No. 25-3622

D.C. No.

2:22-cv-00650-JDP

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Jeremy D. Peterson, Magistrate Judge, Presiding**

Submitted August 25, 2026***

Before: SILVERMAN, N.R. SMITH, and DE ALBA, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

*** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

California state prisoner Durrell Anthony Puckett appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging an Eighth Amendment failure-to-protect claim. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Brodheim v. Cry*, 584 F.3d 1262, 1267 (9th Cir. 2009). We affirm.

The district court properly granted summary judgment because Puckett failed to raise a genuine dispute of material fact as to whether defendants knew of and disregarded a substantial risk of serious harm to Puckett. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994) (setting forth elements of a failure-to-protect claim); *Toguchi v. Chung*, 391 F.3d 1051, 1057 (9th Cir. 2004) (“If a [prison official] should have been aware of the risk but was not, then the [official] has not violated the Eighth Amendment, no matter how severe the risk.”).

The district court did not abuse its discretion by denying Puckett's motion for appointment of counsel because Puckett did not demonstrate exceptional circumstances. *See Agyeman v. Corr. Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004) (setting forth standard of review and “exceptional circumstances” requirement).

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

AFFIRMED.