NOT FOR PUBLICATION

FILED

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TROY T. SMITH, an individual, Plaintiff - Appellant, v. COUNTY OF SNOHOMISH; CITY OF EVERETT; DEBORAH ZINS; CAROLYN WEIKEL; RICHARD WIERSMA; JOHN DOES, 1-50, Defendants - Appellees.	No. 25-2136 D.C. No. 2:24-cv-00288-TLF MEMORANDUM[*]

Appeal from the United States District Court
for the Western District of Washington
Theresa Lauren Fricke, Magistrate Judge, Presiding[**]

Submitted October 27, 2026[***]

Before: SILVERMAN, FORREST, and VANDYKE, Circuit Judges.

Troy T. Smith appeals pro se from the district court's summary judgment in

[*] 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).

his action alleging federal and state law claims arising from the seizure of Smith's animals. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's decision on cross-motions for summary judgment. *Guatay Christian Fellowship v. County of San Diego*, 670 F.3d 957, 970 (9th Cir. 2011). We affirm.

The district court properly granted summary judgment for defendants because Smith failed to file this action within the applicable statute of limitations and did not raise a genuine dispute of material fact as to whether any basis for tolling applied. *See* Wash. Rev. Code § 4.16.080(2) (setting forth three-year statute of limitations for personal injury claims); *Whidbee v. Pierce County*, 857 F.3d 1019, 1022 (9th Cir. 2017) (noting the statute of limitations for an action under 42 U.S.C. § 1983 is determined by "the forum state's statute of limitations for personal injury actions"); *see also Soto v. Sweetman*, 882 F.3d 865, 870-71 (9th Cir. 2018) (explaining that in 42 U.S.C. § 1983 actions "a claim accrues when the plaintiff knows or has reason to know of the injury which is the basis of the action" (citation and internal quotation marks omitted)); *Fowler v. Guerin*, 515 P.3d 502, 503 (Wash. 2022) (en banc) (setting forth requirements for equitable tolling under Washington law).

Contrary to Smith's contention that the district court should have considered Smith's allegations of malicious prosecution, the district court properly disregarded these allegations because Smith failed to include them in his operative

complaint. *See Pickern v. Pier 1 Imports (U.S.), Inc.*, 457 F.3d 963, 968-69 (9th Cir. 2006) (new allegations made in a response to a motion for summary judgment are properly disregarded when not part of the operative complaint).

We do not consider documents and facts not presented to the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990).

The motion (Docket Entry No. 25) requesting oral argument is denied. The motion (Docket Entry No. 27) to supplement the record is denied as unnecessary.

AFFIRMED.