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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DAVID JOHNSON, JR.,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>JAMES A. YATES; et al.,</p> <p>Defendants - Appellees.</p>
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No. 09-16997

D.C. No. 1:06-cv-00535-OWW-DLB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Oliver W. Wanger, District Judge, Presiding

Submitted October 19, 2010**

Before: O'SCANNLAIN, TALLMAN, and BEA, Circuit Judges.

David Johnson, Jr., a California state prisoner, appeals pro se from the district court's judgment dismissing Johnson's action challenging defendants' alleged denial of his requests to be classified as ineligible to participate in work programs or to be granted accommodations for his back problems. We have

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 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 a district court's dismissal for failure to state a claim under 28 U.S.C. § 1915(e)(2), *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order), and 28 U.S.C. § 1915A, *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). We affirm.

The district court properly concluded that Johnson failed to state a claim under the Americans with Disabilities Act or the Social Security Act. *See O'Guinn v. Lovelock Corr. Ctr.*, 502 F.3d 1056, 1060 (9th Cir. 2007) (listing elements of a claim under Title II of the Americans with Disabilities Act); 42 U.S.C. § 405(g) (providing for judicial review of "any final decision of the Commissioner of Social Security").

This court does not consider matters that are 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) (per curiam).

AFFIRMED.