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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GENGHIS KHAN A. STEVENSON,

Plaintiff - Appellant,

v.

DURAN HARMON, Correctional Officer,
as an individual and in his official
capacity; et al.,

Defendants - Appellees.

No. 09-55626

D.C. No. 3:07-CV-00277-W-PCL

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Thomas J. Whelan, District Judge, Presiding

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Genghis Khan A. Stevenson, a California state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging that correctional officers used excessive force against him. We have jurisdiction under

* 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).

28 U.S.C. § 1291. We review for an abuse of discretion. *Childress v. Darby Lumber, Inc.*, 357 F.3d 1000, 1009 (9th Cir. 2004). We affirm.

Stevenson contends that the district court abused its discretion by entering summary judgment before he had adequate time to conduct discovery. There was no abuse of discretion because Stevenson did not seek a continuance under Federal Rule of Civil Procedure 56(f), and because the district court granted Stevenson's motions for additional time to file his opposition and his objections. *See Fed. R. Civ. P. 56(f); Foti v. City of Menlo Park*, 146 F.3d 629, 638 (9th Cir. 1998) (courts of appeal generally do not consider an issue not addressed in district court).

Stevenson's contention that the district court abused its discretion by not considering evidence, first submitted in his objections to the magistrate judge's report and recommendations, is also unpersuasive. *See United States v. Howell*, 231 F.3d 615, 621 (9th Cir. 2000) ("[W]e conclude that a district court has discretion, but is not required, to consider evidence presented for the first time in a party's objection to a magistrate judge's recommendation."). Moreover, the record reflects that the district court reviewed Stevenson's objections and the evidence attached thereto.

Stevenson's remaining contentions are unpersuasive.

AFFIRMED.