

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 17 2017

FOR THE NINTH CIRCUIT

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

ALBERT P. WILSON,

Plaintiff-Appellant,

v.

EDMUND G. BROWN, Jr., an individual; et
al.,

Defendants-Appellees.

No. 16-55058

D.C. No. 3:05-cv-01774-BAS-
MDD

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Cynthia A. Bashant, District Judge, Presiding

Submitted July 11, 2017**

Before: CANBY, KOZINSKI, and HAWKINS, Circuit Judges.

Albert P. Wilson, a California state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging deliberate indifference to his serious medical needs and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a

* 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).

dismissal for failure to serve a summons and complaint in a timely manner.

Oyama v. Sheehan (In re Sheehan), 253 F.3d 507, 511 (9th Cir. 2001). We affirm.

The district court did not abuse its discretion by dismissing Wilson’s claims against defendants Garcia, Dupler, and Irvin because Wilson failed to show good cause as to why he did not timely serve these defendants. *See* Fed. R. Civ. P. 4(m) (outlining requirements for proper service, and explaining that district court may sua sponte dismiss an action for failure to serve “after notice to the plaintiff”); *In re Sheehan*, 253 F.3d at 512 (discussing Rule 4(m)’s “good cause” standard).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009). We do not consider Wilson’s contention that U.S. Marshal authorities improperly failed to serve the complaint because Wilson fails to point to anywhere in the district court record where this issue was raised, and we found no place where this issue was raised.

AFFIRMED.