

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 17 2017

FOR THE NINTH CIRCUIT

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

JOHN CLINT DRAPER,

Plaintiff-Appellant,

v.

J. LEWIS, Deputy Director; CALIFORNIA
CORRECTIONAL HEALTH CARE
SERVICES,

Defendants-Appellees.

No. 17-15042

D.C. No. 2:16-cv-01956-JAM-KJN

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
John A. Mendez, District Judge, Presiding

Submitted August 9, 2017**

Before: SCHROEDER, TASHIMA, and M. SMITH, Circuit Judges.

California state prisoner John Clint Draper appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging various constitutional claims related to a potential data breach. We have jurisdiction under

* 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).

28 U.S.C. § 1291. We review de novo a district court’s dismissal under 28 U.S.C. § 1915A, *Wilhelm v. Rotman*, 680 F.3d 1113, 1118 (9th Cir. 2012), and we affirm.

The district court properly dismissed Draper’s action for lack of subject matter jurisdiction because Draper failed to establish an injury in fact as required for Article III standing. *See Friends of the Earth, Inc. v. Laidlaw Env’tl. Servs. (TOC) Inc.*, 528 U.S. 167, 180-81 (2000) (outlining elements of Article III standing, and explaining that the alleged injury must be “actual or imminent, not conjectural or hypothetical” to establish Article III standing).

We do not consider arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

Draper’s request for appointment of counsel, set forth in his opening brief, is denied.

AFFIRMED.