

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 17 2019

FOR THE NINTH CIRCUIT

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

JEFFREY M. CLARK,

Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA,

Defendant-Appellee.

No. 18-15793

D.C. No. 4:15-cv-00533-FRZ

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Frank R. Zapata, District Judge, Presiding

Submitted December 11, 2019**

Before: WALLACE, CANBY, and TASHIMA, Circuit Judges.

Former federal prisoner Jeffrey M. Clark appeals pro se from the district court's judgment dismissing his Federal Tort Claims Act action alleging medical malpractice. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion the district court's denial of a motion for appointment of

* 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).

counsel. *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009). We affirm.

The district court did not abuse its discretion by denying Clark’s motions for appointment of counsel because Clark failed to demonstrate exceptional circumstances. *See id.* (setting forth “exceptional circumstances” requirement for appointment of counsel).

In his opening brief, Clark fails to raise, and therefore has waived, any challenge to the district court’s dismissal of his action. *See Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) (“[W]e will not consider any claims that were not actually argued in appellant’s opening brief.”); *Acosta-Huerta v. Estelle*, 7 F.3d 139, 144 (9th Cir. 1993) (issues not supported by argument in pro se appellant’s opening brief are waived).

AFFIRMED.