

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 15 2023

FOR THE NINTH CIRCUIT

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

PATRICE E. BROWN,

No. 22-16937

Plaintiff-Appellant,

D.C. No. 2:21-cv-00515-GMS-JZB

v.

MEMORANDUM*

VINCENT DOLCE, named as Employee at Eymann Complex Cook Unit; SHAWNNA BRIER, AKA Shawanna N. Anderson, named as Employee at Eymann Complex,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Arizona
G. Murray Snow, District Judge, Presiding

Submitted December 12, 2023**

Before: WALLACE, LEE, and BUMATAY, Circuit Judges.

Arizona state prisoner Patrice E. Brown appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging an equal protection violation based on race. We have jurisdiction under 28 U.S.C. § 1291.

* 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).

We review de novo. *Jones v. Slade*, 23 F.4th 1124, 1133 (9th Cir. 2022). We affirm.

The district court properly granted summary judgment because Brown failed to raise a genuine dispute of material fact as to whether defendant Dolce acted with discriminatory intent when issuing the disciplinary ticket. *See Furnace v. Sullivan*, 705 F.3d 1021, 1030 (9th Cir. 2013) (plaintiff alleging an equal protection claim must show that defendants acted with an intent to discriminate); *Nilsson v. City of Mesa*, 503 F.3d 947, 952 n.2 (9th Cir. 2007) (explaining that a “conclusory, self-serving affidavit, lacking detailed facts and any supporting evidence, is insufficient to create a genuine issue of material fact” (citation and internal quotation marks omitted)).

The district court did not abuse its discretion in denying Brown’s first and second motions for relief from judgment because Brown failed to establish any basis for such relief. *See Sch. Dist. No. 1J, Multnomah County, Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth standard of review and grounds for relief under Fed. R. Civ. P. 59(e) and 60(b)).

We do not consider Brown’s contentions related to the district court’s order denying Brown’s third motion for reconsideration because Brown did not file an amended or separate notice of appeal from that order. *See Fed. R. App. P. 4(a)* (notice of appeal must be filed within 30 days of the entry of judgment or the

denial of certain post-judgment motions); *Stephanie-Cardona LLC v. Smith's Food & Drug Ctrs., Inc.*, 476 F.3d 701, 703 (9th Cir. 2007) (“A timely notice of appeal is a non-waivable jurisdictional requirement.”).

We reject as unsupported Brown’s contentions regarding Dolce’s alleged failure to respond to Brown’s Federal Rule of Civil Procedure 60(b)(3) motion.

We do not consider matters not specifically and distinctly raised in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.