

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 1 2024

FOR THE NINTH CIRCUIT

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

FERDINAND REYNOLDS,

No. 22-55176

Plaintiff-Appellant,

D.C. No.

v.

2:18-cv-01477-MWF-JPR

DAVID NGUYEN, Medical Doctor -
Corcoran State Prison, Individual; and
official capacity,

MEMORANDUM*

Defendant-Appellee,

and

MICHELLE WOFFORD, Captain;
Individual; and official capacity; NATE
WILCOX, Correctional Counselor III
Former Litigation Officer, Individual; and
official capacity; MERIAM HA, Medical
Doctor's Assistant, Individual; and official
capacity; AMIR RAMADAN, Medical
Doctor - Corcoran State Prison, Individual;
and official capacity,

Defendants.

Appeal from the United States District Court
for the Central District of California
Michael W. Fitzgerald, District Judge, Presiding

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

Submitted February 1, 2024**

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

California state prisoner Ferdinand Reynolds appeals pro se the district court's summary judgment in his action alleging violations of his Eighth Amendment rights. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *See Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004). We affirm.

The district court properly granted summary judgment to Dr. Nguyen on Reynolds' medical deliberate indifference claim because Dr. Nguyen promptly treated Reynolds ear infection by providing medicated ear drops and referring Reynolds to an audiologist. Reynolds provided no evidence that this treatment was medically unacceptable under the circumstances, or that it was chosen in conscious disregard of an excessive risk to Reynolds' health. *See id.* at 1058.

We do not reach Reynolds' argument that he exhausted his claims fully before he filed his complaint, because the district court did not grant summary judgment on that basis. *See, e.g., Planned Parenthood of Greater Wash. & N. Idaho v. U.S. Dep't of Health & Human Servs.*, 946 F.3d 1100, 1110 (9th Cir. 2020) ("In general, an appellate court does not decide issues that the trial court did

** The panel unanimously concludes this case is suitable for decision without oral argument. *See Fed. R. App. P. 34(a)(2)*.

not decide.”).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations made for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.