

NOV 22 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>WALTER M. SHAW, M.D.,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>COUNTY OF SAN DIEGO; et al.,</p> <p>Defendants - Appellees.</p>

No. 09-56102

D.C. No. 3:06-cv-02680-MMA-POR

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Michael M. Anello, District Judge, Presiding

Submitted November 16, 2010**

Before: TASHIMA, BERZON, and CLIFTON, Circuit Judges.

Walter M. Shaw, M.D., appeals pro se from the district court’s summary judgment in his 42 U.S.C. § 1983 action alleging that defendants’ approval of a fraudulent subdivision map violated his constitutional rights. We have jurisdiction

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

under 28 U.S.C. § 1291. We review de novo, *Olsen v. Idaho State Bd. of Med.*, 363 F.3d 916, 922 (9th Cir. 2004), and we affirm.

The district court properly granted summary judgment on Shaw's due process claim because it is barred by the applicable statute of limitations, and Shaw failed to raise a triable issue as to whether he is entitled to equitable tolling based on his prior state court action. *See Canatella v. Van De Kamp*, 486 F.3d 1128, 1132-33 (9th Cir. 2007) (§ 1983 claims that were more than one year old as of January 1, 2003 barred under California's previous one-year statute of limitations); *Daviton v. Columbia/HCA Healthcare Corp.*, 241 F.3d 1131, 1141 (9th Cir. 2001) (en banc) (equitable tolling during a plaintiff's prior pursuit of a remedy in a different forum does not apply to "a claim for a distinct wrong that was *not* the basis of the earlier proceeding").

We do not consider Shaw's contentions raised for the first time on appeal or not supported by argument. *See Travelers Prop. Cas. Co. of Am. v. ConocoPhillips Co.*, 546 F.3d 1142, 1146 (9th Cir. 2008); *Hilao v. Estate of Marcos*, 103 F.3d 767, 778 n.4 (9th Cir. 1996).

Shaw's remaining contentions are unpersuasive.

AFFIRMED.