

FEB 27 2015

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BILLY DRIVER,

Plaintiff - Appellant,

v.

MACHUCA, Sergeant,

Defendant - Appellee.

No. 13-16084

D.C. No. 3:11-cv-05793-SI

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Susan Illston, District Judge, Presiding

Submitted February 17, 2015**

Before: O'SCANNLAIN, LEAVY, and FERNANDEZ, Circuit Judges.

California state prisoner Billy Driver appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging various constitutional claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Albino*

* 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). Driver's requests for oral argument, set forth in his briefs, are denied.

v. Baca, 747 F.3d 1162, 1171 (9th Cir. 2014) (en banc) (legal rulings on exhaustion of administrative remedies). We affirm.

The district court properly dismissed Driver’s First Amendment retaliation claim for failure to exhaust his administrative remedies because Driver did not raise in his grievance the claim that he now raises against Machuca in this action. *See Morton v. Hall*, 599 F.3d 942, 946 (9th Cir. 2010) (“[A] grievance suffices if it alerts the prison to the nature of the wrong for which redress is sought.” (citation and internal quotation marks omitted)).

Because Driver makes no argument concerning the district court’s dismissal of his other claims on allegedly “erroneous procedural grounds,” we deem the issues abandoned. *See Pierce v. Multnomah County, Or.*, 76 F.3d 1032, 1037 n.3 (9th Cir. 1996) (issues not supported by argument in pro se brief are deemed abandoned); *Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994) (“We review only issues which are argued specifically and distinctly in a party’s opening brief. We will not manufacture arguments for an appellant, and a bare assertion does not preserve a claim, particularly when, as here, a host of other issues are presented for review.” (citation omitted)).

We reject Driver’s contentions regarding appointment of counsel and alleged misconduct by the district judge.

Driver's requests for appointment of counsel on appeal and a settlement conference, set forth in his briefs, are denied.

Driver's motion to stop filing fee overcharges, filed on October 28, 2013, is denied without prejudice so that Driver may first raise this issue in the district court where the alleged wrongful deductions occurred.

AFFIRMED.