

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 17 2018

FOR THE NINTH CIRCUIT

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

TOBY M. SEMICK,

No. 17-16090

Plaintiff-Appellant,

D.C. No. 2:15-cv-02462-JAM-EFB

v.

MEMORANDUM*

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of California
John A. Mendez, District Judge, Presiding

Submitted April 11, 2018**

Before: SILVERMAN, PAEZ, and OWENS, Circuit Judges.

California state prisoner Toby M. Semick appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging various federal claims. We have jurisdiction under 28 U.S.C. § 1291. We affirm.

* 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).

In his opening brief, Semick fails to address how the district court erred by dismissing his action for failing to prosecute following the district court's order to file an amended complaint. As a result, Semick has waived his challenge to the district court's order. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999) (“[O]n appeal, arguments not raised by a party in its opening brief are deemed waived.”); *Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994) (“We will not manufacture arguments for an appellant . . .”).

Semick's motion for judicial notice (Docket Entry No. 13) is denied.

AFFIRMED.