FILED

UNITED STATES COURT OF APPEALS

FEB 22 2018

FOR THE NINTH CIRCUIT

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

MARLOS M. MOORE,	No. 17-16135
Plaintiff-Appellant,	D.C. No. 3:15-cv-00410-MMD-VPC
v.	MEMORANDUM*
LEWIS, Sgt.; et al.,	
Defendants-Appellees.	

Appeal from the United States District Court
for the District of Nevada
Miranda M. Du, District Judge, Presiding

Submitted February 13, 2018**

Before: LEAVY, FERNANDEZ, and MURGUIA, Circuit Judges.

Marlos M. Moore, a Nevada state prisoner, appeals pro se from the district

court's summary judgment in his 42 U.S.C. § 1983 action alleging claims arising

from his conditions of confinement. We have jurisdiction under 28 U.S.C. § 1291.

We affirm.

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*   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, Moore failed to challenge the district court's grant of summary judgment, and therefore Moore waived any such challenge. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999) ("[A]rguments not raised by a party in its opening brief are deemed waived.").

We lack jurisdiction to consider Moore's challenge to the district court's order denying Moore's post-judgment motion to reconsider because Moore failed to file an amended or separate notice of appeal after entry of the district court's order denying the motion. *See* Fed. R. App. P. 4(a)(4)(B)(ii); *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 do not consider arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

We do not consider documents not presented to the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990).

AFFIRMED.