

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 23 2019

FOR THE NINTH CIRCUIT

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

JAY LYNN PEMBER,

Plaintiff-Appellant,

v.

CHARLES L. RYAN; et al.,

Defendants-Appellees,

and

SCOTT, Unknown; et al.,

Defendants.

No. 19-15281

D.C. No. 2:17-cv-04069-JJT-JFM

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
John Joseph Tuchi, District Judge, Presiding

Submitted August 19, 2019**

Before: SCHROEDER, PAEZ, and HURWITZ, Circuit Judges.

Jay Lynn Pember, an Arizona state prisoner, appeals pro se from the district

* 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).

court's order denying his motions for injunctive relief in his 42 U.S.C. § 1983 action alleging deliberate indifference to his serious medical needs. We have jurisdiction under 28 U.S.C. § 1292(a)(1). We review for an abuse of discretion, *Puente Ariz. v. Arpaio*, 821 F.3d 1098, 1103 (9th Cir. 2016), and we affirm.

The district court did not abuse its discretion by denying Pember's motions for a preliminary injunction because Pember failed to establish that he was likely to suffer irreparable harm. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (listing factors for district court to consider in evaluating a motion for a preliminary injunction).

We do not consider Pember's contentions regarding his January 30, 2019 motion for a preliminary injunction or the merits of his underlying complaint because those issues are outside the scope of this appeal.

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

Pember's request for judicial notice, set forth in his reply brief, is denied.

Pember's motion to consolidate (Docket Entry No. 11) is denied as moot.

AFFIRMED.