**NOT FOR PUBLICATION**

FILED

FEB 7 2020

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| TIMOTHY MARVIN SANTOS,<br><br>Plaintiff-Appellant,<br><br>v.<br><br>CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION; et al.,<br><br>Defendants-Appellees. | No. 19-15775<br><br>D.C. No. 2:17-cv-02287-KJM-AC<br><br>MEMORANDUM* |

Appeal from the United States District Court
for the Eastern District of California
Kimberly J. Mueller, District Judge, Presiding

Submitted February 4, 2020**

Before: FERNANDEZ, SILVERMAN, and TALLMAN, Circuit Judges.

California state prisoner Timothy Marvin Santos appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging due process claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo

* 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).

a dismissal under 28 U.S.C. § 1915A. *Hamilton v. Brown*, 630 F.3d 889, 892 (9th Cir. 2011). We affirm.

The district court properly dismissed Santos's action for failure to state a plausible federal due process claim because Santos's claims concern interpretation of the California Constitution, which is a matter for California courts. *See Swarthout v. Cooke*, 562 U.S. 216, 220 (2011) (holding that the only federal right at issue in the context of parole is whether minimal procedural due process protections were met); *see also Mullaney v. Wilbur*, 421 U.S. 684, 691 (1975) ("[S]tate courts are the ultimate expositors of state law . . . ." (citations and footnote omitted)); *Langford v. Day*, 110 F.3d 1380, 1389 (9th Cir. 1996) (a plaintiff may not "transform a state-law issue into a federal one merely by asserting a violation of due process").

The district court did not abuse its discretion by dismissing Santos's fourth amended complaint without leave to amend because amendment would have been futile. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) (setting forth standard of review and explaining that dismissal without leave to amend is proper when amendment would be futile).

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).

**AFFIRMED.**