

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 24 2021

FOR THE NINTH CIRCUIT

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

PHILIP ANDRA GRIGSBY,

No. 20-15655

Petitioner-Appellant,

D.C. No. 4:20-cv-00116-JAS-LCK

v.

MEMORANDUM*

BARBARA VON BLANCKENSEE,

Defendant-Appellee.

Appeal from the United States District Court
for the District of Arizona
James A. Soto, District Judge, Presiding

Submitted March 16, 2021**

Before: GRABER, R. NELSON, and HUNSAKER, Circuit Judges.

Federal prisoner Philip Andra Grigsby appeals pro se from the district court's judgment dismissing Grigsby's 28 U.S.C. § 2241 habeas corpus petition.

We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

In the petition, Grigsby claimed the denial of email access and access to the

* 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).

courts, that legal mail had been opened outside of Grigsby's presence, and that Grigsby had been subjected to harassment. Grigsby also claimed that prison staff harass transgender inmates.

Grigsby's opening brief fails to raise, and therefore has waived, any argument that the district court erred in its conclusion that these claims must be pursued in a civil rights action rather than in a habeas proceeding. *See Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) (stating that this court "cannot manufacture arguments for an appellant" and therefore "will not consider any claims that were not actually argued in appellant's opening brief" (internal quotations omitted)).

To the extent Grigsby argues entitlement to a recalculation of custody credits, we do not consider that claim because it was not raised before the district court. *See Padgett v. Wright*, 587 F.3d 983, 985 n. 2 (9th Cir. 2009).

Grigsby's request to proceed in forma pauperis is unnecessary because in forma pauperis status was granted in the district court proceedings. *See Fed. R. App. P. 24(a)(3)*. Grigsby's motions for appointment of counsel are denied.

AFFIRMED.