

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 24 2021

FOR THE NINTH CIRCUIT

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

ROGELIO CALDERON,

No. 20-15731

Plaintiff-Appellant,

D.C. No. 4:18-cv-04384-KAW

v.

MEMORANDUM\*

PHUC LAM, Prison Doctor; et al.,

Defendants-Appellees.

Appeal from the United States District Court  
for the Northern District of California  
Kandis A. Westmore, Magistrate Judge, Presiding\*\*

Submitted August 17, 2021\*\*\*

Before: SILVERMAN, CHRISTEN, and LEE, Circuit Judges.

California state prisoner Rogelio Calderon appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging deliberate indifference to his serious medical needs. We have jurisdiction under 28 U.S.C.

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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 parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

\*\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1291. We review de novo. *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004). We affirm.

The district court properly granted summary judgment for defendants because Calderon failed to raise a genuine dispute of material fact as to whether defendants were deliberately indifferent to Calderon's heart issues. *See id.* at 1060-61 (9th Cir. 2004) (deliberate indifference is a high legal standard requiring a defendant be aware of and disregard an excessive risk to an inmate's health).

Calderon has waived any challenge to the district court's grant of summary judgment on Calderon's allegations against defendant Lam for falsifying or omitting information from Calderon's medical records, as well as the district court's grant of defendants' motion to file a supplemental motion for summary judgment, because he did not raise them in his opening brief. *See Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) ("[W]e review only issues which are argued specifically and distinctly in a party's opening brief." (citation and internal quotation marks omitted)); *Acosta-Huerta v. Estelle*, 7 F.3d 139, 144 (9th Cir. 1993) (issues not supported by argument in pro se appellant's opening brief are waived).

**AFFIRMED.**