

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 14 2022

FOR THE NINTH CIRCUIT

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

VINTON P. FROST,

Plaintiff-Appellant,

v.

UNITED STATES DEPARTMENT OF  
JUSTICE; MELANIE ANN PUSTAY;  
SEAN O'NEILL; OFFICE OF  
INFORMATION POLICY,

Defendants-Appellees.

No. 20-17524

D.C. No. 3:17-cv-01240-JCS

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Joseph C. Spero, Magistrate Judge, Presiding\*\*

Submitted December 8, 2022\*\*\*

Before: WALLACE, TALLMAN, and BYBEE, Circuit Judges.

Vinton P. Frost appeals pro se from the district court's summary judgment in

---

\* 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).

his Freedom of Information Act (“FOIA”) action arising out of the Department of Justice’s (“DOJ”) responses to his requests for records. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Animal Legal Def. Fund v. U.S. Food & Drug Admin.*, 836 F.3d 987, 990 (9th Cir. 2016) (en banc). We affirm.

The district court properly granted summary judgment because Frost failed to raise a genuine dispute of material fact as to whether the DOJ did not “conduct[ ] a search reasonably calculated to uncover all relevant documents.” *Hamdan v. U.S. Dep’t of Justice*, 797 F.3d 759, 770 (9th Cir. 2015) (citation and internal quotation marks omitted); *id.* at 770-71 (requirements for demonstrating adequacy of a search for documents in response to a FOIA request).

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).

Frost’s motions for appearances and oral argument (Docket Entry Nos. 28 and 29) are denied.

**AFFIRMED.**