

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 14 2022

FOR THE NINTH CIRCUIT

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U.S. COURT OF APPEALS

SHAYKH MUHAMMAD ABDUL BIN
TALAL AL SAUD, AKA Shaykh
Muhammad Abdul Aziz Khalid Bin Talal
Alsaud,

Plaintiff-Appellant,

v.

ALBERT TREVINO, Prison Security Guard;
RICARDO MONTES, Security Captain;
RIDENOUR, Sergeant; DAVID SHINN,
Director, ADOC Director; C. SIERA,
Position Guard at Arizona State Prison
Florence-Eyman SMU-1,

Defendants-Appellees.

No. 21-16088

D.C. No. 2:20-cv-00022-SPL-JFM

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Steven Paul Logan, District Judge, Presiding

Submitted December 8, 2022**

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

* 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).

Arizona state prisoner Shaykh Muhammad Abdul Bin Talal Al Saud appeals pro se from the district court's summary judgment for failure to exhaust administrative remedies in his 42 U.S.C. § 1983 action alleging various constitutional claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Albino v. Baca*, 747 F.3d 1162, 1168 (9th Cir. 2014) (en banc). We affirm.

The district court properly granted summary judgment on Al Saud's excessive force claims because Al Saud failed to exhaust his administrative remedies and failed to raise a genuine dispute of material fact as to whether administrative remedies were effectively unavailable to him. *See Ross v. Blake*, 578 U.S. 632, 638, 641-44 (2016) (explaining that an inmate must exhaust such administrative remedies as are available before bringing an action, and describing limited circumstances in which administrative remedies are unavailable); *Woodford v. Ngo*, 548 U.S. 81, 90 (2006) (“[P]roper exhaustion of administrative remedies . . . means using all steps that the agency holds out, and doing so properly (so that the agency addresses the issues on the merits).” (citation, internal quotation marks, and emphasis omitted)); *Albino*, 747 F.3d at 1172 (once the defendant has carried the burden to prove there was an available administrative remedy, the burden shifts to the plaintiff to produce evidence showing that administrative remedies were effectively unavailable to him).

The district court did not abuse its discretion in denying Al Saud's motion to

produce documents because Al Saud failed to show that he was actually and substantially prejudiced. *See Laub v. U.S. Dep't of Interior*, 342 F.3d 1080, 1084, 1093 (9th Cir. 2003) (setting forth standard of review and noting that a district court's "decision to deny discovery will not be disturbed except upon the clearest showing that the denial of discovery results in actual and substantial prejudice to the complaining litigant" (citation and internal quotation marks omitted)).

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

AFFIRMED.