

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 21 2023

FOR THE NINTH CIRCUIT

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

JONATHAN ERIC RIVERA,

No. 22-16818

Plaintiff-Appellant,

D.C. No. 4:22-cv-00031-JAS-PSOT

v.

MEMORANDUM*

CENTURION; UNKNOWN PARTY, named as P.C.S.D. Medical Intake Jane Doe #1; PIMA COUNTY ADULT DETENTION COMPLEX; UNKNOWN PARTY, named as Centurion Nurse Jane Doe #2; UNKNOWN PARTY, named as Nurse Jane Doe #3 Centurion; UNKNOWN PARTY, named as Centurion Nurse Jane Doe #4; UNKNOWN ROBINSON, named as Nurse Robinson Centurion; NAPHCARE; UNKNOWN PARTY, named as Pima Count Sergeant Classification Officer John/Jane Doe #5; PIMA, COUNTY OF,

Defendants-Appellees.

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

Submitted November 14, 2023**

* 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).

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

Arizona state prisoner Jonathan Eric Rivera appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging constitutional violations related COVID-19 policies at the jail where Rivera was housed as a pretrial detainee. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's dismissal under 28 U.S.C. § 1915A. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). We affirm.

The district court properly dismissed Rivera's action because Rivera failed to allege facts sufficient to state a plausible claim. *See Gordon v. County of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018) (setting forth objective deliberate indifference standard for Fourteenth Amendment inadequate medical care and conditions-of-confinement claims brought by pretrial detainees); *Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1139 (9th Cir. 2012) (stating standard for bringing § 1983 suits against private entities acting under color of state law); *Clement v. Gomez*, 298 F.3d 898, 905 (9th Cir. 2002) (setting forth elements for establishing liability based on failure to train under § 1983); *Arnold v. Int'l Bus. Machs. Corp.*, 637 F.2d 1350, 1355 (9th Cir. 1981) (“[L]iability under section 1983 can be established by showing that the defendant personally participated in a deprivation of the plaintiff's rights [] or caused such a deprivation to occur.”); *see also Hebbe v. Pliler*, 627 F.3d 338, 341-42 (9th Cir. 2010) (although pro se

pleadings are liberally construed, a plaintiff must allege facts sufficient to state a plausible claim).

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.