

NO. 18A1347

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In the  
Supreme Court of the United States

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JOHN M. WASSON  
Petitioner  
v.  
UNITED STATES OF AMERICA, et al  
Respondents

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**MOTION TO FILE WRIT OF CERTIORARI OUT OF TIME**

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John M. Wasson, pro se  
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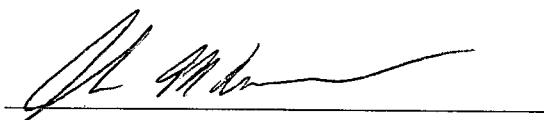
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From 27 April 2019 to 26 June 2019 Mr. Wasson was in federal custody at the North West Regional Reentry Center in Portland, Oregon, where he did not have access to his computer or records, foregoing his ability to proceed with his PETITION FOR A WRIT OF CERTIORARI. He is a pro se litigant with no formal legal training and very limited assets.

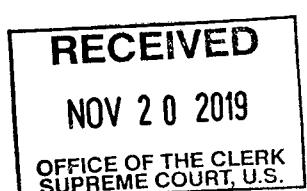
Mr. Wasson believed that his time spent at the NWRRC should have been tolled. Despite his pleadings to have the time tolled, SCOTUS' replies to his pleadings did not address the issue of tolling.

Mr. Wasson filed his PETITION FOR A WRIT OF CERTIORARI within the time that would have been considered timely had his tolling plea been accepted. Now he requests that if his PETITION FOR A WRIT OF CERTIORARI cannot be accepted as timely, that it be accepted and filed as Out of Time, as suggested by letter dated 21 October 2019, copy attached.

Respectfully submitted,



14 November 2019



NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

MAR 20 2019

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

JOHN M. WASSON,

No. 18-35489

Plaintiff-Appellant,

D.C. No. 2:15-cv-01279-SU

v.

MEMORANDUM\*

UNITED STATES OF AMERICA; et al.,

Defendants-Appellees.

Appeal from the United States District Court  
for the District of Oregon  
Anna J. Brown, District Judge, Presiding

Submitted March 12, 2019\*\*

Before: LEAVY, BEA, and N.R. SMITH, Circuit Judges.

John M. Wasson appeals pro se from the district court's summary judgment in his action brought under *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), and the Federal Tort Claims Act (“FTCA”), alleging claims relating to his unpatented mining site in the Umatilla

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

National Forest. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Nolan v. Heald Coll.*, 551 F.3d 1148, 1153 (9th Cir. 2009). We affirm.

The district court properly granted summary judgment on Wasson's Fourth Amendment claim against defendant Helberg because Wasson failed to raise a genuine dispute of material fact as to whether he had a reasonable expectation of privacy relating to the photography of his trailer through an unobstructed window. *See Smith v. Maryland*, 442 U.S. 735, 740 (1979) (setting forth two-part test for determining whether there is a reasonable expectation of privacy protected by the Fourth Amendment).

The district court properly granted summary judgment on Wasson's due process claims against defendants Johnson, Mayte, and Reid because Wasson failed to raise a genuine dispute of material fact as to whether he was deprived of a constitutionally protected liberty interest or adequate procedural protections. *See United States v. Juvenile Male*, 670 F.3d 999, 1012-13 (9th Cir. 2012) (identifying requirements for substantive and procedural due process claims).

We do not consider arguments raised for the first time on appeal or 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).

We treat Wasson's filing (Docket Entry No. 17) as a motion to file a late reply brief, and grant the motion. The Clerk shall file the reply brief submitted at

Docket Entry No. 16.

**AFFIRMED.**

**Additional material  
from this filing is  
available in the  
Clerk's Office.**