

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

SEP 26 2019

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

RICHARD LOUIS ARNOLD PHILLIPS,

No. 18-16790

Plaintiff-Appellant,

D.C. No. 5:17-cv-00875-EJD

v.

MEMORANDUM\*

KEVIN CHAPPELL, Warden, San Quentin  
State Prison; et al.,

Defendants-Appellees.

Appeal from the United States District Court  
for the Northern District of California  
Edward J. Davila, District Judge, Presiding

Submitted September 18, 2019\*\*

Before: FARRIS, TASHIMA, and NGUYEN, Circuit Judges.

California state prisoner Richard Louis Arnold Phillips appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging federal claims in connection with his confinement in state prison. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's

\* 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).*

Exhibit "A"

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 Phillips's claim premised on his allegedly illegal confinement in state prison as barred by *Heck v. Humphrey*, 512 U.S. 477 (1994), because success on this claim would necessarily demonstrate the invalidity of the duration of his confinement. *See Wilkinson v. Dotson*, 544 U.S. 74, 78 (2005) (“[A] prisoner in state custody cannot use a § 1983 action to challenge the fact or duration of his confinement.” (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).

Defendants' motion to take judicial notice (Docket Entry No. 19) is denied as unnecessary.

**AFFIRMED.**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 30 2019

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

RICHARD LOUIS ARNOLD PHILLIPS,

Plaintiff-Appellant,

v.

KEVIN CHAPPELL, Warden, San Quentin  
State Prison; et al.,

Defendants-Appellees.

No. 18-16790

D.C. No. 5:17-cv-00875-EJD  
Northern District of California,  
San Jose

ORDER

Before: FARRIS, TASHIMA, and NGUYEN, Circuit Judges.

The panel has voted to deny the petition for panel rehearing.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R. App. P. 35.

Phillips's petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 31) are denied.

No further filings will be entertained in this closed case.

Exhibit "B"

1  
2  
3  
4  
5  
6  
7  
8 RICHARD LOUIS ARNOLD  
9 PHILLIPS,

10 Plaintiff,

11 v.

12 KEVIN R. CHAPPELL, et al.,  
13 Defendants.

14 Case No. 17-00875 EJD (PR)

15 **JUDGMENT**

16  
17 For the reasons stated in the order of dismissal, this action is DISMISSED.

18 Judgment is entered accordingly.

19 The Clerk shall close the file.

20  
21 Dated: 8/15/2018



22  
23 EDWARD J. DAVILA  
24 United States District Judge

25  
26 Judgment  
27 PRO-SE\EJD\CR.17\00875Phillips\_judgment

28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RICHARD LOUIS ARNOLD PHILLIPS,  
Plaintiff,  
v.  
KEVIN R. CHAPPELL, et al.,  
Defendants

Case No.17-cv-00875-EJD

## **CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 8/15/2018, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Richard Louis Arnold Phillips ID: C-13707  
CA State Prison at Corcoran  
4001 King Avenue  
PO Box 3456  
Corcoran, CA 93212

Dated: 8/15/2018

Susan Y. Soong  
Clerk, United States District Court

By: Adriana M. Kratzmann  
Adriana M. Kratzmann, Deputy Clerk to the  
Honorable EDWARD J. DAVILA