

**FILED**

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

JUL 5 2023

FOR THE NINTH CIRCUIT

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

RAUL MENDEZ,

Plaintiff-Appellant,

v.

ADA COMMUNITY LIBRARIES BOARD  
OF TRUSTEES; MARY DEWALT,  
Director of Ada Community libraries;  
MERIDIAN LIBRARY DISTRICT BOARD  
OF TRUSTEES; GRETCHEN CASSEROTI,  
Director of Meridian Library District,

Defendants-Appellees.

No. 22-35151

D.C. No. 1:20-cv-00589-DCN

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Idaho  
David C. Nye, District Judge, Presiding

Submitted June 26, 2023\*\*

Before: CANBY, S.R. THOMAS, and CHRISTEN, Circuit Judges.

Raul Mendez appeals pro se from the district court's judgment dismissing his action alleging federal and state law claims arising out of disputes regarding

---

\* 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).

public library access and taxes. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Meland v. Weber*, 2 F.4th 838, 843 (9th Cir. 2021) (dismissal for lack of standing); *Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1040 (9th Cir. 2011) (dismissal for failure to state a claim). We affirm.

The district court properly dismissed Mendez’s claims challenging state taxes supporting public libraries because Mendez lacked standing to bring these claims. *See DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 344 (2006) (explaining that taxpayers generally lack standing to challenge state taxes because such an alleged injury is neither “concrete and particularized” nor “actual and imminent”).

The district court properly dismissed Mendez’s First Amendment claim because Mendez failed to allege facts sufficient to establish that his inability to enter public libraries for several months during the Covid-19 pandemic was unreasonable or not viewpoint neutral. *See Wright v. Incline Vill. Gen. Improvement Dist.*, 665 F.3d 1128, 1134 (9th Cir. 2011) (explaining access rights to government property).

The district court properly dismissed Mendez’s Americans with Disabilities Act claim because Mendez failed to allege that he had a disability. *See* 42 U.S.C. § 12132 (prohibiting disability discrimination by public entities); 42 U.S.C. § 12102(2) (defining disability); *Chapman v. Pier 1 Imports (U.S.) Inc.*, 631 F.3d 939, 954 (9th Cir. 2011) (“While we are mindful of the generous pleading

standards that apply to civil rights plaintiffs, a liberal interpretation of a . . . civil rights complaint may not supply essential elements of the claim that were not initially pled.” (citation and internal quotation marks omitted)).

The district court did not abuse its discretion in denying Mendez’s motion for reconsideration because Mendez failed to demonstrate any basis for relief. *See* Fed. R. Civ. P. 59(e); *Zimmerman v. City of Oakland*, 255 F.3d 734, 740 (9th Cir. 2001) (setting forth standard of review and discussing factors for granting a motion for reconsideration under Rule 59(e)); *see also Vill. of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000) (equal protection “class of one” claim requires alleging that plaintiff “has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment”); *Serrano v. Francis*, 345 F.3d 1071, 1082 (9th Cir. 2003) (setting forth requirements for equal protection discrimination claim based on membership in a protected class).

We reject as unsupported by the record Mendez’s contentions that the district court failed to construe his pro se pleadings liberally or violated his due process rights.

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.**

1/8/2024

**FILED**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

OCT 10 2023

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

RAUL MENDEZ,

Plaintiff-Appellant,

v.

ADA COMMUNITY LIBRARIES BOARD  
OF TRUSTEES; et al.,

Defendants-Appellees.

No. 22-35151

D.C. No. 1:20-cv-00589-DCN  
District of Idaho,  
Boise

ORDER

Before: CANBY, S.R. THOMAS, and CHRISTEN, 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.

Mendez's petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 17) are denied.

No further filings will be entertained in this closed case.