

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 12 2008

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

RICHARD JOSEPH CRANE,

Plaintiff - Appellant,

v.

B. WHEELER, C/O, High Desert State  
Prison, in his individual and official  
capacity,

Defendant - Appellee.

No. 05-17410

D.C. No. CV-03-02443-  
GEB/DAD

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Garland E. Burrell, Chief Judge, Presiding

Submitted February 26, 2008\*\*

Before: BEEZER, FERNANDEZ and McKEOWN, Circuit Judges.

California state prisoner Richard Joseph Crane appeals pro se from the  
district court's partial summary judgment and partial judgment after jury trial in his

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

42 U.S.C. § 1983 action alleging disciplinary due process violations and retaliation at High Desert State Prison. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's grant of summary judgment. *Blueford v. Prunty*, 108 F.3d 251, 255 (9th Cir. 1997). We review evidentiary rulings for an abuse of discretion. *Tritchler v. County of Lake*, 358 F.3d 1150, 1155 (9th Cir. 2004). We affirm.

The district court properly granted summary judgment on Crane's claim that his due process rights were violated by disciplinary proceedings that resulted in the loss of good time credits because Crane failed to show that the results of the disciplinary hearings were invalidated. *See Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994) (holding prisoner must demonstrate conviction or sentence has been successfully overturned before challenging validity of the conviction or sentence); *Blueford*, 108 F.3d at 255 (affirming dismissal without prejudice under *Heck* of damages claims relating to disciplinary proceedings where good time credits involved).

The district court did not abuse its discretion by admitting Officer Fannon's testimony at trial because it was based on his personal observations and his direct participation in the search of Crane's cell. *See Fed. R. Evid. 801(c)*.

The district court did not abuse its discretion by admitting a copy of the rules violation report as relevant to show that the disciplinary action was not retaliatory but reasonably advanced a legitimate penological interest. *See* Fed. R. Evid. 403; *see also Barnett v. Centoni*, 31 F.3d 813, 816 (9th Cir. 1994) (per curiam) (preserving institutional order, discipline, and security are legitimate penological goals).

The district court did not abuse its discretion by admitting a copy of the cell search receipt under the public records exception to the hearsay rule. *See* Fed. R. Evid. 803(8)(B).

Crane's remaining contentions are unpersuasive.

Crane's motion for a preliminary injunction is denied.

**AFFIRMED.**