

DEC 10 2007

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICHARD J. VIEIRA,

Plaintiff - Appellant,

v.

JEANNE S. WOODFORD, Warden; et al.,

Defendants - Appellees.

No. 06-15855

D.C. No. CV-02-03374-PJH

MEMORANDUM\*

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

Submitted December 3, 2007\*\*

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

Richard J. Vieira, a California state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging defendants denied him equal protection by refusing to pay him for his work cleaning a prison

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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).

exercise yard. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review for an abuse of discretion, *Valley Eng'r, Inc. v. Elec. Eng'g Co.*, 158 F.3d 1051, 1057 (9th Cir.1998), and we affirm.

Contrary to Vieira's contention, the district court did not abuse its discretion by denying his motion to compel production of documents from nonparties under Fed. R. Civ. P. 34, because the rule may not be used to discover matters from a nonparty. *See Hatch v. Reliance Ins. Co.*, 758 F.2d 409, 416 (9th Cir. 1985).

The district court also did not abuse its discretion by denying Vieira's motion to stay entry of summary judgment so that Vieira could locate and identify other defendants, because the litigation had ended as to the served defendant. *See Bryant v. Ford Motor Co.*, 886 F.2d 1526, 1533 (9th Cir. 1989) (concluding that an order granting summary judgment in favor of all served defendants closes the case).

**AFFIRMED.**