

DEC 10 2007

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MONTE C. HOISINGTON,

Plaintiff - Appellant,

v.

HENRY RICHARDS, Dr.; et al.,

Defendants - Appellees.

No. 06-36025

D.C. No. CV-05-05281-RBL

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Ronald B. Leighton, District Judge, Presiding

Submitted December 3, 2007**

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

Monte C. Hoisington, civilly committed in Washington state as a sexually violent predator, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging defendants violated his due process rights by

* 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).

denying him property. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004), and we affirm.

The district court properly granted summary judgment, because Hoisington failed to create a triable issue as to whether defendants' decisions regarding his personal property bore no reasonable relationship to the purpose of his commitment, *see Seling v. Young*, 531 U.S. 250, 265 (2001), or were punitive, *see Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004) (although an individual detained under civil process cannot be subject to conditions amounting to punishment, “[l]egitimate, non-punitive government interests include . . . effective management of a detention facility”).

We decline to consider issues and evidence raised for the first time on appeal. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990) (explaining that the appellate court reviews only issues and documents included in the district court record).

Hoisington's remaining contentions lack merit.

AFFIRMED.