

DEC 28 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CHARLES O'CAIN,

Plaintiff - Appellant,

v.

RENTON POLICE DEPT; et al.,

Defendants - Appellees.

No. 06-36065

D.C. No. CV-06-00035-RSL

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Robert S. Lasnik, District Judge, Presiding

Submitted December 20, 2007**

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

Washington state prisoner Charles O'Cain appeals pro se from the district court's summary judgment in favor of defendants in his 42 U.S.C. §§ 1983, 1985 action alleging constitutional violations stemming from two searches of his cell

* 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).

and his subsequent placement in administrative segregation. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Morrison v. Hall*, 261 F.3d 896, 900 (9th Cir. 2001), and we affirm.

The district court properly granted summary judgment on O’Cain’s Fourth Amendment claim because the prohibition on unreasonable searches and seizures does not apply in prison cells. *See Hudson v. Palmer*, 468 U.S. 517, 526 (1984) (holding prisoners do not have any subjective expectation of privacy in their prison cells).

The district court properly granted summary judgment on O’Cain’s conspiracy claim under 42 U.S.C. § 1985 because O’Cain does not allege that defendants conspired against him due to his race or class. *See Bretz v. Kelman*, 773 F.2d 1026, 1028 (9th Cir. 1985) (requiring allegation of class-based animus for conspiracy claim under relevant clauses of section 1985).

The district court properly granted summary judgment on O’Cain’s due process claim because O’Cain did not raise a triable issue as to whether his continued confinement in administrative segregation imposed an “atypical and significant hardship on [him] in relation to the ordinary incidents of prison life.” *Sandin v. Conner*, 515 U.S. 472, 484 (1995).

O’Cain’s remaining contentions are unpersuasive.

All pending motions are denied as moot.

AFFIRMED.