

JAN 14 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>NICK SHEVCHYNSKI,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>LYLE VELURE; et al.,</p> <p>Defendants - Appellees.</p>

No. 07-35613

D.C. No. CV-07-06007-AA

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Ann Aiken, District Judge, Presiding

Submitted December 17, 2008**

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

Nick Shevchynski appeals pro se from the district court's judgment
dismissing for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2), his 42

* 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).

U.S.C. § 1983 action against Oregon judicial officials for allegedly infringing upon his access to the courts. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Ove v. Gwinn*, 264 F.3d 817, 821 (9th Cir. 2001), and we affirm.

The district court properly dismissed because, even assuming that defendants were not immune from Shevchysnki's claims, the allegations in the complaint failed to state a claim upon which relief could have been granted. *See id.* at 824 (“To state a claim under § 1983, a plaintiff must allege the violation of a right secured by the Constitution and laws of the United States . . . [and t]o the extent that the violation of a state law amounts to the deprivation of a state-created interest that reaches beyond that guaranteed by the federal Constitution, Section 1983 offers no redress.”) (internal quotation marks omitted); *see also M.L.B. v. S.L.J.*, 519 U.S. 102, 113 (1996) (explaining that there exists only “a narrow category of civil cases in which the State must provide access to its judicial process without regard to a party’s ability to pay court fees”).

We do not consider facts stated for the first time on appeal. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990) (“[F]acts not presented to the district court are not part of the record on appeal.”).

AFFIRMED.