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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BRIAN ZAHN,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>BRIAN APPLEBURY; et al.,</p> <p>Defendants - Appellees.</p>

No. 07-35843

D.C. No. CV-05-00371-FVS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Fred Van Sickle, District Judge, Presiding

Submitted January 13, 2009**

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

Brian Zahn appeals pro se from the district court's order dismissing his
action alleging that defendants violated his constitutional rights and various

* 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).

employment laws. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Arrington v. Wong*, 237 F.3d 1066, 1069 (9th Cir. 2001), and we affirm.

The district court properly dismissed the claims under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), the Privacy Act, the Family and Medical Leave Act, and state law, because those claims are precluded by the Civil Service Reform Act. *See Orsay v. U.S. Dep't of Justice*, 289 F.3d 1125, 1128-30 (9th Cir. 2002); *Russell v. U.S. Dep't of the Army*, 191 F.3d 1016, 1019-20 (9th Cir. 1999); *Saul v. United States*, 928 F.2d 829, 842-43 (9th Cir. 1991).

The district court properly dismissed the Americans with Disabilities Act claim. *See* 42 U.S.C. § 12111(5)(B)(i) (excluding the federal government from the definition of “employer” under the Act).

Zahn’s remaining contentions are unavailing.

AFFIRMED.