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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DARYL DWIGHT GRAY, Plaintiff - Appellant, v. ANTONIO VILLARAIGOZA, Mayor of Los Angeles; et al., Defendants - Appellees.	No. 07-56035 D.C. No. CV-06-03836-JVS MEMORANDUM[*]

Appeal from the United States District Court
for the Central District of California
James V. Selna, District Judge, Presiding

Submitted January 13, 2009[**]

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

Daryl Dwight Gray, a California state prisoner, appeals pro se from the district court's judgment dismissing pursuant to 28 U.S.C. § 1915A his civil rights

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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).

/Research

action as barred under *Heck v. Humphrey*, 512 U.S. 477 (1994). We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000), and we affirm.

The district court properly dismissed the action because a judgment in Gray's favor would necessarily imply the invalidity of Gray's conviction, and Gray failed to allege that his conviction has been invalidated. *See Heck*, 512 U.S. at 486-87.

The district court did not abuse its discretion by denying Gray's request for appointment of counsel. *See Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991).

Gray's remaining contentions are unpersuasive.

AFFIRMED.