

JAN 28 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>EUGENE D. CARPER,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p style="text-align: center;">v.</p> <p>WASHINGTON STATE DEPARTMENT OF CORRECTIONS; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>
--

No. 08-35514

D.C. No. 2:07-cv-00571-JLR

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
James L. Robart, District Judge, Presiding

Submitted January 20, 2009**

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

A review of the record and the response to the order to show cause indicates that the questions raised in this appeal are so insubstantial as not to require further

* 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).

argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

Accordingly, we summarily affirm the district court's judgment.

All pending motions are denied as moot.

AFFIRMED.