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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JERRY LEE COLE,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>C. HARRINGTON, Officer; et al.,</p> <p>Defendants - Appellees.</p>
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No. 08-16467

D.C. No. 2:07-CV-00740-MHM-MHB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Mary H. Murguia, District Judge, Presiding

Submitted February 18, 2009**

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Jerry Lee Cole, a former detainee at Maricopa County Jail, appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action, without prejudice, for failure to exhaust administrative remedies as required by the Prison

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Litigation Reform Act, 42 U.S.C. § 1997e(a). We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Wyatt v. Terhune*, 315 F.3d 1108, 1117 (9th Cir. 2003). We affirm.

The district court properly dismissed the action because Cole did not properly exhaust administrative remedies before filing his complaint in federal court. *See Woodford v. Ngo*, 548 U.S. 81, 90-91 (2006) (explaining that “proper exhaustion” requires adherence to administrative procedural rules). Further, Cole failed to show that he was prevented from exhausting.

AFFIRMED.