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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BRYAN DAVIS, Sr.,  
  
Plaintiff - Appellant,  
  
v.  
  
CITY OF SAN DIEGO,  
  
Defendant,  
  
and  
  
ROGER T. BENITEZ, Judge; et al.,  
  
Defendants - Appellees.

No. 08-56635

D.C. No. 3:08-cv-01456-H-LSP

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Marilyn L. Huff, District Judge, Presiding

Submitted February 23, 2009\*\*

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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).

Before: KOZINSKI, Chief Judge, HAWKINS and GOULD, Circuit Judges.

Upon review of the record, appellant's response to this court's October 30, 2008 order to show cause, and appellant's opening brief, this court hereby summarily affirms the district court's order dismissing appellant's complaint without leave to amend. *See United States v. Hooton*, 693 F.2d 857 (9th Cir. 1982) (per curiam) (summary affirmance appropriate where result is clear from face of record).

**AFFIRMED.**