FILED

APR 06 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

REGINALD J. DAVIS, Plaintiff - Appellant, v. EDWARD S. ALAMEIDA, Jr., Defendant - Appellee.	No. 07-56285 D.C. No. CV-07-03951-AHS MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Alicemarie H. Stotler, District Judge, Presiding

Submitted March 18, 2009**

Before: LEAVY, HAWKINS, and TASHIMA, Circuit Judges.

California state prisoner Reginald J. Davis appeals pro se from the district court's order dismissing his 42 U.S.C. § 1983 action pursuant to 28 U.S.C.

---

* 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).

EN/Research

1915(e). We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Huftile v. Miccio-Fonseca*, 410 F.3d 1136, 1138 (9th Cir. 2005), and we affirm.

The district court properly dismissed the action because Davis sought to bring a claim that had been dismissed in a prior action and failed to state a claim for relief. *See Cato v. United States*, 70 F.3d 1103, 1105 n.2 (9th Cir. 1995). ("There is no abuse of discretion where a district court dismisses under § 1915[(e)] a complaint that merely repeats pending or previously litigated claims.") (citation and internal quotations omitted); *Jackson v. McIntosh*, 90 F.3d 330, 332 (9th Cir. 1996) (holding that a difference in opinion over proper medical treatment does not amount to deliberate indifference).

AFFIRMED.