

APR 28 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

D. HARRIS,

Plaintiff - Appellant,

v.

LEROY BACA, Sheriff; et al.,

Defendants - Appellees.

No. 05-56610

D.C. No. CV-05-02972-RSWL

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Ronald S.W. Lew, District Judge, Presiding

Submitted April 13, 2009**

Before: LEAVY, GOULD, and BEA, Circuit Judges.

D. Harris, a former detainee at the Los Angeles County Men's Central 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

* 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).

by the Prison 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 Harris 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, Harris failed to show that he was prevented from exhausting.

AFFIRMED.