

APR 28 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LARRY DONNELL KING,

Plaintiff - Appellant,

v.

P. NOLAND; et al.,

Defendants - Appellees.

No. 08-15558

D.C. No. 3:06-CV-05538-WHA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
William H. Alsup, District Judge, Presiding

Submitted April 13, 2009**

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

Larry Donnell King, a California state prisoner, appeals pro se from the district court's judgment dismissing without prejudice his 42 U.S.C. § 1983 action

* 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).

for failure to exhaust administrative remedies as required under the Prison Litigation Reform Act. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *O’Guinn v. Lovelock Corr. Ctr.*, 502 F.3d 1056, 1059 (9th Cir. 2007). We affirm.

The district court properly dismissed the action because King failed to pursue his grievances beyond the intermediate level of administrative review, and failed to demonstrate that he was not required to do so. *See Griffin v. Arpaio*, 557 F.3d 1117, 1119 (9th Cir. 2009) (proper exhaustion “means that a grievant must use all steps the prison holds out, enabling the prison to reach the merits of the issue”).

King’s remaining contentions are unavailing.

AFFIRMED.