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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>KHANH PHAM,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p>v.</p> <p>STEWART J. RYAN, Warden of California State Prison; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>
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No. 08-55506

D.C. No. 3:06-cv-00061-DMS-
CAB

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Dana M. Sabraw, District Judge, Presiding

Submitted July 14, 2009**

Before: SCHROEDER, THOMAS, and WARDLAW, Circuit Judges.

Khanh Pham, a California state prisoner, appeals pro se from the district court's order dismissing his 42 U.S.C. § 1983 action, without prejudice, for failure

* 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).

to exhaust administrative remedies as required 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. *O’Guinn v. Lovelock Corr. Ctr.*, 502 F.3d 1056, 1059 (9th Cir. 2007). We affirm.

The district court properly dismissed the action because Pham failed to file an administrative appeal within fifteen working days of the alleged incident as required by title 15, section 3084.6(c) of the California Code of Regulations. *See Ngo v. Woodford*, 539 F.3d 1108, 1110 (9th Cir. 2008) (concluding that inmate’s failure to bring timely administrative complaint constitutes non-exhaustion).

AFFIRMED.