

FEB 11 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WAYNE NELSON CUNDAY,

Plaintiff - Appellant,

v.

DEPARTMENT OF SOCIAL AND
HEALTH SERVICES OF
WASHINGTON STATE,

Defendant - Appellee.

No. 07-35925

D.C. No. 07-cv-00046-LRS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Lonny R. Suko, District Judge, Presiding

Submitted January 13, 2009**

Before: O'SCANNLAIN, BYBEE, and CALLAHAN, Circuit Judges.

Wayne Nelson Cunday appeals pro se from the district court's order
dismissing his amended complaint for failure to state a claim under Federal Rule of

* 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).

Civil Procedure 8(a). We have jurisdiction under 28 U.S.C. § 1291. We review for abuse of discretion dismissal of an amended complaint for failure to comply with Rule 8. *McHenry v. Renne*, 84 F.3d 1172, 1177 (9th Cir. 1996).

We affirm.

The district court correctly determined that no claim was stated by the amended complaint, which consists of one sentence: “Plaintiff alleges: 1. Violates my CONSTITUTIONAL RIGHTS, IS ARBITRARY AND OR CAPRICIOUS.” *Cunday v. Dep’t of Soc. & Health Servs.*, No. 07-cv-00046-LRS, slip op. at 1 (E.D. Wash. June 25, 2007).

AFFIRMED.