

MAR 30 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CARLOS HENDON,

Plaintiff - Appellant,

v.

M. KNOWLES, Warden-CSP; et al.,

Defendants - Appellees.

No. 07-16735

D.C. No. CV-05-01061-GEB/JFM

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Garland E. Burrell, Jr., District Judge, Presiding

Submitted March 18, 2009**

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

Carlos Hendon, a California state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action for failure to exhaust

* 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).

administrative remedies pursuant to 42 U.S.C. § 1997e(a) of the Prison Litigation Reform Act. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Wyatt v. Terhune*, 315 F.3d 1108, 1117 (9th Cir. 2003), and we affirm.

The district court properly dismissed the action because Hendon did not properly exhaust prison grievance procedures prior to filing suit in federal court. *See Ngo v. Woodford*, 539 F.3d 1108, 1109-10 (9th Cir. 2008) (explaining that an inmate must bring a timely administrative appeal in order to properly exhaust administrative remedies); *McKinney v. Carey*, 311 F.3d 1198, 1199 (9th Cir. 2002) (per curiam) (holding that exhaustion under § 1997e(a) must occur prior to commencement of the action).

Hendon's remaining contentions are unpersuasive.

AFFIRMED.