

APR 29 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BARRY NORTHCROSS PATTERSON,

Plaintiff - Appellant,

v.

G. GREELEY, Dr.; S. GOLDSMITH,
APO,

Defendants - Appellees.

No. 05-15235

D.C. No. CV-03-01542-PGR

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Paul G. Rosenblatt, District Judge, Presiding

Argued and Submitted April 20, 2009
San Diego, California

Before: WALLACE, FARRIS and McKEOWN, Circuit Judges.

Barry Northcross Patterson, an Arizona prisoner, appeals from the district court's dismissal of his civil rights action for failure to exhaust administrative remedies, as required under the Prison Litigation Reform Act of 1995 ("PLRA"),

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

42 U.S.C. § 1997e(a). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Patterson concedes that Ngo v. Woodford, 539 F.3d 1108 (9th Cir. 2008), forecloses the argument in his opening brief that he satisfied the exhaustion requirement. As to Patterson's claim that prison officials frustrated his ability to grieve, his conclusory pleadings and submissions are insufficient to survive a motion to dismiss for failure to exhaust administrative remedies. Patterson failed to link any alleged obstruction to his ability to grieve with the Eighth Amendment deliberate indifference claim at issue in this action.

AFFIRMED.