

MAY 26 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICHARD J. HARDENBROOK,

Plaintiff - Appellant,

v.

EMPLOYEES OF THE UNITED
STATES DEPARTMENT OF THE
INTERIOR; et al.,

Defendants - Appellees.

No. 08-15149

D.C. No. CV-06-00431-ECR

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Edward C. Reed, District Judge, Presiding

Submitted May 12, 2009**

Before: PREGERSON, CANBY, and BERZON, Circuit Judges.

* 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).

Richard J. Hardenbrook appeals pro se from the district court's judgment dismissing his action for failure to state a claim upon which relief can be granted. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Fed. R. Civ. P. 12(b)(6). *Knievel v. ESPN*, 393 F.3d 1068, 1072 (9th Cir. 2005). We affirm.

The district court properly dismissed Hardenbrook's third amended complaint because it failed to state a cognizable legal theory upon which relief can be granted. *See Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1988) ("Dismissal can be based on the lack of a cognizable legal theory[.]").

Hardenbrook's remaining contentions are without merit.

All pending motions are denied.

AFFIRMED.