

MAY 26 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DANNY JAMES COHEA,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>J. JONES; et al.,</p> <p>Defendants - Appellees.</p>

No. 08-15589

D.C. No. 2:07-cv-00694-FCD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Frank C. Damrell, District Judge, Presiding

Submitted May 12, 2009**

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

California state prisoner Danny James Cohea appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action, without prejudice, for failure to exhaust administrative remedies as required by the Prison Litigation

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Reform Act (“PLRA”), 42 U.S.C. § 1997e(a). We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Wyatt v. Terhune*, 315 F.3d 1108, 1117 (9th Cir. 2003). We affirm.

The district court properly dismissed the action because Cohea made no attempt to exhaust administrative remedies before filing his complaint in federal court. *See Porter v. Nussle*, 534 U.S. 516, 520 (2002) (holding that PLRA requires prisoners to exhaust administrative remedies); *see also Woodford v. Ngo*, 548 U.S. 81, 90-91 (2006) (explaining that “proper exhaustion” requires adherence to administrative procedural rules). Further, Cohea failed to show that he was prevented from exhausting.

Cohea’s pending motions are denied.

AFFIRMED.