

JUL 06 2009

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WILLIAM D. WEBSTER,

Plaintiff - Appellant,

v.

STACY BRONSON, in her professional  
capacity; et al.,

Defendants - Appellees.

No. 08-35150

D.C. No. CV-07-05661-FDB

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
Franklin D. Burgess, District Judge, Presiding

Submitted June 16, 2009\*\*

Before: PAEZ, TALLMAN, and N.R. SMITH, Circuit Judges.

William D. Webster appeals pro se from the district court's order dismissing his 42 U.S.C. § 1983 action claiming that family court investigator Stacy Bronson

---

\* 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 and therefore denies appellant's request for oral argument. *See* Fed. R. App. P. 34(a)(2).

and the Kitsap County Juvenile Services department violated his constitutional rights. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Steckman v. Hart Brewing, Inc.*, 143 F.3d 1293, 1295 (9th Cir. 1998), and we vacate and remand.

The district court did not perform the functional analysis required to determine whether the investigator had absolute immunity. *See Beltran v. Santa Clara County*, 514 F.3d 906, 909 (9th Cir. 2008) (en banc) (per curiam); *Miller v. Gammie*, 335 F.3d 889, 898 (9th Cir. 2003) (en banc).

The district court should have granted Webster leave to amend his complaint. *See Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000) (stating that a district court should grant leave to amend even if no request to amend was made, unless it determines that the pleading could not possibly be cured).

We therefore vacate the district court's order as to both defendants.

**VACATED and REMANDED.**