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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>DANIEL RENARD,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>SAN DIEGO UNIFIED PORT DISTRICT; et al.,</p> <p>Defendants - Appellees.</p> |
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No. 08-55412

D.C. No. 06-CV-02665-H-BLM

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Marilyn L. Huff, District Judge, Presiding

Submitted June 16, 2009**

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

Daniel Renard appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo,

* 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).

Outdoor Media Group, Inc. v. City of Beaumont, 506 F.3d 895, 899 (9th Cir. 2007), and we affirm.

The district court properly dismissed Renard’s procedural due process claim because Renard failed to show he had a state-created right to free long-term anchorage in San Diego Bay. *See id.* at 902-03 (“[P]roperty interests giving rise to a due process claim . . . are created and their dimensions are defined by existing rules or understandings that stem from state law.”) (quotation marks, citations, and ellipses omitted); *see also Graf v. San Diego Unified Port Dist.*, 7 Cal. App. 4th 1224, 1232 (1992) (“Boaters do not have a constitutional right to unregulated long-term anchorage in public navigable waters.”).

The district court properly dismissed Renard’s substantive due process claim because his asserted right to free long-term anchoring in a public body of water is not a right that can be considered “so rooted in the traditions and conscience of our people as to be ranked as fundamental.” *Reno v. Flores*, 507 U.S. 292, 303 (1993) (quotation marks and citations omitted).

We do not consider Renard’s contentions concerning dismissal of claims that were not realleged in the operative complaint. *See Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997) (“It is the law of this circuit that a plaintiff waives all claims alleged in a dismissed complaint which are not realleged in an

amended complaint.”). Moreover, we do not consider new issues that Renard raises for the first time on appeal. *See Cold Mountain v. Garber*, 375 F.3d 884, 891 (9th Cir. 2004) (“In general, we do not consider an issue raised for the first time on appeal.”).

Renard’s remaining contentions lack merit.

AFFIRMED.