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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NOT FOR PUBLICATION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.

CHARLES L. RYAN;* et al.,

Defendants - Appellees.

No. 08-15195

D.C. No. CV-06-00399-PGR

MEMORANDUM**

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

Submitted September 14, 2009***

Before: SILVERMAN, RAWLINSON, and CLIFTON, Circuit Judges.

* Charles L. Ryan is substituted for his predecessor, Dora B. Schriro, as Director of the Arizona Department of Corrections, pursuant to Fed. R. App. P. 43(c)(2).

** 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).

Arizona state prisoner Barry Northcross Patterson appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging constitutional violations related to his kosher meal plan. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Beene v. Terhune*, 380 F.3d 1149, 1150 (9th Cir. 2004), and we affirm.

The district court properly granted summary judgment with respect to Patterson's Free Exercise claim because he failed to raise a triable issue as to whether defendants' policy of providing Patterson with a consistent kosher meal plan was reasonably related to a legitimate penological interest. *See Shakur v. Schriro*, 514 F.3d 878, 886 (9th Cir. 2008) (recognizing simplified food service as a legitimate penological interest); *Arpin v. Santa Clara Valley Transp. Agency*, 261 F.3d 912, 922 (9th Cir. 2001) (explaining that conclusory allegations unsupported by factual data are insufficient to defeat a motion for summary judgment).

The district court properly granted summary judgment with respect to Patterson's retaliation claim because he failed to raise a triable issue as to whether defendants' conduct was based on retaliatory motive, rather than legitimate penological goals. *See Bruce v. Ylst*, 351 F.3d 1283, 1288 (9th Cir. 2003).

Patterson's remaining contentions are unpersuasive.

AFFIRMED.