

OCT 13 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>GUST MARION JANIS,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p>v.</p> <p>ERIC H. HOLDER Jr., Attorney General; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>
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No. 06-56128

D.C. No. CV-01-07191-R

MEMORANDUM \*

Appeal from the United States District Court  
for the Central District of California  
Manuel L. Real, District Judge, Presiding

Submitted September 14, 2009 \*\*

Before: SILVERMAN, RAWLINSON, and N.R. SMITH, Circuit Judges.

Gust Marion Janis, a federal prisoner, appeals pro se from the district court's judgment in his action brought under *Bivens v. Six Unknown Named Agents of*

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\* 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).

*Federal Bureau of Narcotics*, 403 U.S. 388 (1971). We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004) (summary judgment), *Wyatt v. Terhune*, 315 F.3d 1108, 1117 (9th Cir. 2003) (dismissal for failure to exhaust), and we affirm.

Contrary to Janis's contentions, the exhaustion requirement in 42 U.S.C. § 1997e(a) applies to this action because it was filed in 2001, after § 1997e(a) was enacted. *Cf. Bishop v. Lewis*, 155 F.3d 1094, 1096 (9th Cir. 1998) (holding that the Prison Litigation Reform Act's exhaustion requirement does not apply to actions filed *prior* to its enactment).

The record belies Janis's contention that defendants' summary judgment motion was "not supported by any affidavits based on personal knowledge, exhibits, or other evidentiary materials."

Janis's remaining contentions regarding summary judgment, exhaustion of administrative remedies, and the statute of limitations are not persuasive because they are conclusory statements unsupported by legal argument. *See Fed. R. App. P. 28(a)(9); Entm't Research Group, Inc. v. Genesis Creative Group, Inc.*, 122 F.3d 1211, 1217 (9th Cir. 1997) ("We review only issues which are argued specifically and distinctly in a party's opening brief. We will not manufacture arguments for an appellant, and a bare assertion does not preserve a claim.").

We deny as unnecessary and improper Janis's request that we take judicial notice of details of documents that are already part of the record.

**AFFIRMED.**