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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BRYAN DAVIS, SR.,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p style="text-align: center;">v.</p> <p>CALIFORNIA WESTERN SCHOOL OF LAW, CA Innocence Project; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>
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No. 09-55187

D.C. No. 3:08-CV-02231-DMS-  
LSP

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Dana M. Sabraw, District Judge, Presiding

Submitted October 13, 2009\*\*

Before: B. FLETCHER, LEAVY, and RYMER, Circuit Judges.

Bryan Davis, Sr., a California state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action. We have jurisdiction

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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).

pursuant to 28 U.S.C. § 1291. We review de novo a district court’s dismissal for failure to state a claim pursuant to 28 U.S.C. § 1915A, *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000), and pursuant to 28 U.S.C. § 1915(e), *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order), and we affirm.

The district court properly dismissed the claims against defendants Brooks and California Western School of Law because Davis’s complaint failed to allege facts suggesting that these defendants acted under color of state law. *See Anderson v. Warner*, 451 F.3d 1063, 1067 (9th Cir. 2006) (explaining that to state a claim under § 1983, a plaintiff must allege that a person “acting under color of state law” committed the conduct at issue).

The district court properly dismissed defendants McCann and Stout on grounds of prosecutorial immunity. *See Milstein v. Cooley*, 257 F.3d 1004, 1008-09 (9th Cir. 2001) (explaining that state prosecutors are immune from a civil suit for damages under § 1983 for activities intimately associated with the judicial phase of the criminal process).

On appeal Davis makes only 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 will not

manufacture arguments for an appellant, and a bare assertion does not preserve a claim.”).

**AFFIRMED.**