

DEC 14 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ANDREW T. HINCKLEY,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>YAKIMA COUNTY,</p> <p>Defendant - Appellee,</p> <p>and</p> <p>THURSTON COUNTY; et al.,</p> <p>Defendants.</p>

No. 08-35297

D.C. No. 2:06-CV-03067-JPH

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
James P. Hutton, Magistrate Judge, Presiding**

Submitted November 17, 2009***

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The parties consented to the jurisdiction of the Magistrate Judge. *See* 28 U.S.C. § 636(c).

*** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: ALARCÓN, TROTT, and TASHIMA, Circuit Judges.

Andrew T. Hinckley, a former inmate at the Yakima County Jail, appeals from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging that Yakima County violated his constitutional rights by failing to protect him from an attack by other inmates. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Gibson v. County of Washoe*, 290 F.3d 1175, 1180 (9th Cir. 2002), and we affirm.

The district court properly granted summary judgment because Hinckley failed to raise a triable issue as to whether the County employees' housing decision was a direct result of a County policy, or whether the County had a custom or policy that amounted to deliberate indifference and was the moving force behind the employees' housing decision. *See id.* at 1188, 1193-94 (discussing two ways to establish municipal liability); *see also Navarro v. Block*, 72 F.3d 712, 714 (9th Cir. 1995) ("Proof of random acts or isolated events is insufficient to establish custom.").

AFFIRMED.