

DEC 29 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT MITCHELL,

Plaintiff - Appellant,

v.

TORRIE CARDER; et al.,

Defendants - Appellees.

No. 08-35748

D.C. No. 2:08-cv-00083-FVS

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of Washington  
Fred Van Sickle, District Judge, Presiding

Submitted December 15, 2009\*\*

Before: GOODWIN, WALLACE, and CLIFTON, Circuit Judges.

Robert Mitchell, a Washington state prisoner, appeals pro se from the district court's order dismissing his 42 U.S.C. § 1983 action pursuant to 28 U.S.C.

§§ 1915(e) and 1915A for failure to state a claim. We have jurisdiction under 28

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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 concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

U.S.C. § 1291. We review de novo, *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000), and we affirm.

The district court properly dismissed the First Amended Complaint because Mitchell failed to allege facts demonstrating that defendants were personally involved in any deprivation of his constitutional rights. *See Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order).

The district court did not abuse its discretion by denying Mitchell's motions for appointment of counsel because Mitchell failed to demonstrate exceptional circumstances warranting appointment of counsel. *See Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991).

Mitchell's motion for a continuance is denied.

Given this court's order on February 25, 2009 denying appointment of counsel, we do not entertain Mitchell's March 3, 2009 motion for appointment of counsel.

**AFFIRMED.**