

MAR 05 2010

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DAVID WAYNE WILSON,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p>v.</p> <p>SCOTT KERNAN, Director Adult Institutions; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>
---

No. 08-15396

D.C. No. CV-07-00616-GEB/EFB

MEMORANDUM \*

Appeal from the United States District Court  
for the Eastern District of California  
Garland E. Burrell, Jr., District Judge, Presiding

Submitted February 16, 2010\*\*

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

David Wayne Wilson, a California state prisoner, appeals *pro se* from the district court's judgment dismissing with prejudice his 42 U.S.C. § 1983 action

---

\* 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).

claiming violations of his due process rights. We have jurisdiction under 28 U.S.C. § 1291. We review *de novo* the district court's dismissal of a complaint for failure to state a claim under 28 U.S.C. § 1915A, *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000), and we affirm.

The district court properly dismissed Wilson's complaint because he failed to allege the violation of any right arising under the United States Constitution or federal law, as required for a Section 1983 claim. *See Sandin v. Conner*, 515 U.S. 472, 483 (1995). As to Wilson's substantive due process claim, placement in administrative segregation does not impose the type of "atypical or significant hardship on the inmate in relation to the incidents of prison life" to give rise to a protected liberty interest. *Id.* at 483-84; *see also May v. Baldwin*, 109 F.3d 557, 565 (9th Cir. 1997). Nor does Wilson allege facts in support of a procedural due process claim, which would require lack of notice and opportunity for hearing preceding the deprivation of life, liberty, or property. *See Lone Star Sec. & Video, Inc. v. City of Los Angeles*, 584 F.3d 1232, 1236 (9th Cir. 2009). Wilson failed to allege a protected interest, and admits that he both received advance notice of the temporary directive at issue and exercised the opportunity to challenge it.

**AFFIRMED.**