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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DAVID WAYNE WILSON,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>K. WANN; et al.,</p> <p>Defendants - Appellees.</p>

No. 08-17633

D.C. No. 2:06-cv-01629-GEB-KJM

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 his 42 U.S.C. § 1983 action for failure to

* 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).

exhaust administrative remedies pursuant to the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a). We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's dismissal for failure to exhaust, and for clear error its factual determinations, *Wyatt v. Terhune*, 315 F.3d 1108, 1117 (9th Cir. 2003). We affirm.

The district court properly dismissed Wilson's claims under the First and Eighth Amendments because he did not complete the administrative appeals process in accordance with the administrative procedural rules, and failed to demonstrate that he was obstructed from doing so. *See Woodford v. Ngo*, 548 U.S. 81, 90-91 (2006) (explaining that "proper exhaustion" under § 1997e(a) requires inmates to complete "all steps that the agency holds out" and to follow administrative procedural rules).

We do not reach the contention by appellee property officer Wann that this appeal is also barred under the three-strikes provision of the Prison Litigation Reform Act, and we deny as moot Wann's related request for judicial notice.

AFFIRMED.