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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MARK T. MURRAY,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>KRAIG NEWMAN; et al.,</p> <p>Defendants - Appellees.</p>
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No. 08-35702

D.C. No. 3:07-cv-05215-RBL

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Ronald B. Leighton, District Judge, Presiding

Submitted February 16, 2010**

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

Mark T. Murray appeals pro se from the district court’s summary judgment in favor of defendant Kraig Newman in Murray’s 42 U.S.C. § 1983 action alleging malicious prosecution. We have jurisdiction under 28 U.S.C. § 1291. We review

* 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).

de novo summary judgment on the basis of qualified immunity. *Case v. Kitsap County Sheriff's Dep't*, 249 F.3d 921, 925 (9th Cir. 2001). We affirm.

The district court properly concluded that Newman had qualified immunity from Murray's claim of malicious prosecution because the record indicates that there was probable cause to issue a search warrant and arrest Murray. *See Mills v. Graves*, 930 F.2d 729, 731 (9th Cir. 1991) (noting that "[qualified] immunity will be lost only where the warrant application is so lacking in indicia of probable cause as to render official belief in its existence unreasonable").

AFFIRMED.