

MAR 25 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>PAUL A. WESBECHER,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>STEPHEN D. LANDAKER; et al.,</p> <p>Defendants - Appellees.</p>
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No. 08-17051

D.C. No. 2:01-cv-02410-FCD-DAD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Frank C. Damrell, Jr., District Judge, Presiding

Submitted March 16, 2010**

Before: SCHROEDER, PREGERSON, and RAWLINSON, Circuit Judges.

Paul A. Wesbecher appeals pro se from the district court's summary judgment for defendants in his 42 U.S.C. § 1983 action alleging excessive force.

* 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).

We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Whitaker v. Garcetti*, 486 F.3d 572, 579 (9th Cir. 2007), and we affirm.

The district court properly granted summary judgment on Wesbecher's excessive force claim because a judgment in his favor would necessarily imply the invalidity of his convictions, and Wesbecher offered no evidence that his convictions have been invalidated. *See Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994).

Defendant Landaker's motion to supplement the record and motion for leave to file a late brief are granted.

AFFIRMED.