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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BOBBY LAYTHEN BINFORD,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p>v.</p> <p>TERRY BENDA, Institutional Investigator; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>

No. 07-35706

D.C. No. 3:06-CV-05364-RBL

MEMORANDUM *

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

Submitted March 16, 2010 **

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

Bobby Laythen Binford, a Washington state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging that

* 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).

defendants violated his civil rights. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004). We affirm the summary judgment for the reasons stated in the magistrate judge's report and recommendations entered on June 29, 2007, and adopted by the district court on July 27, 2007.

We do not consider Binford's claims that were not properly raised below. *See Dodd v. Hood River County*, 59 F.3d 852, 863 (9th Cir. 1995).

Binford's remaining contentions are unpersuasive.

AFFIRMED.