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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ROBERT WOOTEN,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>STATE OF CALIFORNIA; et al.,</p> <p>Defendants - Appellees.</p>
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No. 09-15560

D.C. No. 2:08-cv-01311-LKK-JFM

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence K. Karlton, District Judge, Presiding

Submitted March 16, 2010**

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

Robert Wooten appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action alleging that the defendants violated his First and

* 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).

Tenth Amendment rights by virtue of a California Supreme Court decision legalizing same-sex marriage in California. We have jurisdiction under 28 U.S.C. § 1291. We review de novo an order granting a motion to dismiss. *Sacks v. Office of Foreign Assets Control*, 466 F.3d 764, 770 (9th Cir. 2006). We affirm for the reasons stated by the district court.

We do not consider Wooten's arguments raised for the first time on appeal. *See Bias v. Moynihan*, 508 F.3d 1212, 1223 (9th Cir. 2007).

Wooten's remaining contentions are unpersuasive.

AFFIRMED.