

APR 20 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

THOMAS O. SPICER,

Plaintiff - Appellant,

v.

CITY OF SIMI VALLEY,

Defendant - Appellee.

No. 08-56262

D.C. No. 2:07-cv-04973-AHM-  
FFM

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
A. Howard Matz, District Judge, Presiding

Submitted April 5, 2010\*\*

Before: RYMER, McKEOWN, PAEZ, Circuit Judges.

Thomas O. Spicer appeals pro se from the district court's summary judgment in his Americans with Disabilities Act ("ADA") action alleging the City

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\* 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, and we therefore deny Spicer's request for oral argument. *See* Fed. R. App. P. 34(a)(2).

of Simi Valley discriminated against him by issuing him citations for illegal parking. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Universal Health Servs., Inc. v. Thompson*, 363 F.3d 1013, 1019 (9th Cir. 2004), and we affirm.

The district court properly granted summary judgment on Spicer's ADA claim because, assuming Spicer was disabled within the meaning of the ADA, he failed to raise a triable issue as to whether he was excluded from participating in, or benefitting from, any service or program because of his disability. *See McGary v. City of Portland*, 386 F.3d 1259, 1265 (9th Cir. 2004) (listing elements for a claim under Title II of the ADA). To the extent Spicer seeks to overturn the state court judgment, we lack jurisdiction pursuant to the *Rooker-Feldman* doctrine. *See Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005).

Spicer's remaining contentions are unpersuasive.

**AFFIRMED.**