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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GREGORY TABAREZ,

Plaintiff - Appellant,

v.

JAMES E. TILTON; et al.,

Defendants - Appellees.

No. 09-15661

D.C. No. 5:07-cv-04920-JF

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Jeremy D. Fogel, District Judge, Presiding

Submitted May 25, 2010**

Before: CANBY, THOMAS, and W. FLETCHER, Circuit Judges.

Gregory Tabarez, a California state prisoner, appeals pro se from the district court's summary judgement in his 42 U.S.C. § 1983 action alleging prison officials

* 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).

transferred him in retaliation for exercising his First Amendment rights. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Oliver v. Keller*, 289 F.3d 623, 626 (9th Cir. 2002), and we affirm.

The district court properly granted summary judgment because Tabarez did not raise a genuine issue of material fact as to whether his transfer to another prison facility did not serve a legitimate penological interest. *See Pratt v. Rowland*, 65 F.3d 802, 806-07 (9th Cir. 1995) (prisoner bears burden of proving absence of legitimate correctional goals for alleged retaliatory conduct and deference should be afforded to prison officials in evaluating proffered goals).

The district court did not abuse its discretion in its disposition of the challenged pretrial motions. *See Jorgensen v. Cassidy*, 320 F.3d 906, 913 (9th Cir. 2003) (“The district court is given broad discretion in supervising the pretrial phase of litigation”) (citation and internal quotation marks omitted); *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991) (no abuse of discretion in denying appointment of counsel because no exceptional circumstance).

Tabarez’s remaining contentions are unpersuasive.

AFFIRMED.