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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>LONNIE HARRIS,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>EDDIE ALVES; et al.,</p> <p>Defendants - Appellees.</p>
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No. 08-35487

D.C. No. 2:06-cv-05068-RHW

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Robert H. Whaley, District Judge, Presiding

Submitted June 29, 2010**

Before: ALARCÓN, LEAVY, and GRABER, Circuit Judges.

Lonnie Harris appeals pro se from the district court’s summary judgment for defendants in Harris’s 42 U.S.C. § 1983 action alleging violations of his First and Fourteenth Amendment rights and his rights under the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc-1 (2000). We have jurisdiction

* 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).

under 28 U.S.C. § 1291. We review for an abuse of discretion a denial of a motion to stay. *United States v. Peninsula Commc'ns, Inc.*, 287 F.3d 832, 838 (9th Cir. 2002). We vacate and remand.

The record shows that Harris repeatedly notified the district court that he was being denied access to photocopying and postage services for his legal mail during his detention at the Pierce County Detention and Corrections Center (“PCDCC”). *See Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005) (setting forth competing interests that must be weighed when granting or denying a stay, including the hardship or inequity which a party may suffer in being required to go forward). After Harris filed this appeal, the PCDCC allowed Harris access to photocopying and postage services for his legal mail, and Harris filed more than one hundred pages of briefs and exhibits on appeal. We vacate the judgment and remand to allow the district court to consider these documents in the first instance.

The parties shall bear their own costs on appeal.

VACATED and REMANDED.