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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MOHAMMAD SALAMEH,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>PETER CARLSON; et al.,</p> <p>Defendants - Appellees.</p>

Nos. 08-56040
08-57068

D.C. No. 2:98-cv-08493-SVW-
MLG

MEMORANDUM*

Appeals from the United States District Court
for the Central District of California
Stephen V. Wilson, District Judge, Presiding

Submitted June 29, 2010**

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

Mohammad Salameh, a federal prisoner who is currently housed in Colorado, appeals pro se from the district court’s judgment following a bench trial in his *Bivens* action alleging defendants violated his Eighth Amendment rights by

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes these appeals are suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

using excessive force. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's legal conclusions and review for clear error its findings of fact. *Friends of Yosemite Valley v. Norton*, 348 F.3d 789, 793 (9th Cir. 2003). We review for an abuse of discretion the district court's award of costs to a prevailing party. *Save Our Valley v. Sound Transit*, 335 F.3d 932, 944 n.12 (9th Cir. 2003). We affirm.

The district court did not clearly err when it made credibility determinations and concluded, based on those findings, that defendant Swanson did not use excessive force when transferring Salameh. *See Hudson v. McMillian*, 503 U.S. 1, 7 (1992) (the core judicial inquiry in an Eighth Amendment excessive force claim is whether the "force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm").

The district court did not abuse its discretion by denying Salameh's motion to re-tax costs after considering Salameh's financial situation and his ability to pay awarded costs. *See Save Our Valley*, 335 F.3d at 944-45.

Salameh's remaining contentions are unpersuasive.

AFFIRMED.