

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 02 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JAMAR JAMES EVANS,

Plaintiff - Appellant,

v.

ATWATER POLICE DEPARTMENT,

Defendant - Appellee.

No. 08-16169

D.C. No. 1:07-cv-00126-OWW-
DLB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Oliver W. Wanger, District Judge, Presiding

Submitted July 19, 2010**

Before: B. FLETCHER, REINHARDT, and WARDLAW, Circuit Judges.

Jamar James Evans appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging excessive force during his arrest.

We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Barnett v.*

Centoni, 31 F.3d 813, 815 (9th Cir. 1994) (per curiam). We affirm.

* 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).

In opposition to summary judgment, Evans contended that the district court lacked jurisdiction to hear his § 1983 action because of California Government Code § 945.3. The district court properly concluded that it had jurisdiction to consider Evans's action. *See Harding v. Galceran*, 889 F.2d 906, 908 (9th Cir. 1989) (California Government Code § 945.3 does not prohibit a § 1983 action).

Evans's remaining contentions are unpersuasive.

AFFIRMED.