

SEP 07 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BILLY DRIVER,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p>v.</p> <p>MARTEL, Warden; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>
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No. 09-17309

D.C. No. 2:08-cv-1910-GEB-EFB

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Garland E. Burrell, Jr., District Judge, Presiding

Submitted August 23, 2010\*\*

Before: LEAVY, HAWKINS, and THOMAS, Circuit Judges.

Billy Driver, a California state prisoner, appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action for failure to state a claim. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a

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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. *See* Fed. R. App. P. 34(a)(2).

dismissal under 28 U.S.C. § 1915A, *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000), and we affirm.

The district court properly dismissed Driver's action because he failed to allege facts to state a section 1983 claim, and failed to file an amended complaint curing the deficiencies despite detailed directions on multiple occasions on how to do so. *See Long v. County of Los Angeles*, 442 F.3d 1178, 1185 (9th Cir. 2006) (listing elements of section 1983 claim); *see also Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982) (liberal interpretation of a pro se civil rights complaint may not supply essential elements of the claim that were not initially pled).

We deny Driver's motion for injunctive relief in the form of release from prison as beyond the scope of this appeal. Liberally construing Driver's recent letter as a motion for access to the prison library, we also deny this request because the failure to allege sufficient facts cannot be cured through legal research.

**AFFIRMED.**