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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JANETTA SCONIERS and
TIYEONDREA MCGLOTHIN,

Plaintiffs - Appellants,

v.

MARIO SANTOS, in his individual and
official capacity; et al.,

Defendants - Appellees.

No. 09-15601

D.C. No. 1:08-cv-01290-LJO-GSA

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O’Neill, District Judge, Presiding

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Janetta Sconiers and Tiyendrea McGlothlin appeal pro se from the district court’s judgment dismissing under 28 U.S.C. § 1915(e)(2) their 42 U.S.C. § 1983 action arising from their eviction from low income housing. 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 de novo. *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order).

We affirm the dismissal of the action for failure to state a claim for the reasons provided in the magistrate judge's findings and recommendation entered on December 8, 2008, and adopted by the district court on February 26, 2009.

The district court did not abuse its discretion by denying plaintiffs leave to amend their complaint. *See Gardner v. Martino*, 563 F.3d 981, 990 (9th Cir. 2009) (“A district court does not err in denying leave to amend where the amendment would be futile.”).

The district court did not abuse its discretion by denying plaintiffs' motion for appointment of counsel because they failed to demonstrate “exceptional circumstances.” *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991).

The remaining contentions are unpersuasive.

AFFIRMED.