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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CURTIS K. JACKSON, SR.,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>SHERRI SCOTT; et al.,</p> <p>Defendants - Appellees.</p>
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No. 05-17222

D.C. No. CV-04-00738-HDM

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Howard D. McKibben, District Judge, Presiding

Submitted October 19, 2010**

Before: O'SCANNLAIN, LEAVY, and TALLMAN, Circuit Judges.

Curtis K. Jackson, Sr., a Nevada state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action under the screening provisions of 28 U.S.C. § 1915(e) for failure to state a claim. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Barren v. Harrington*,

* 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).

152 F.3d 1193, 1194 (9th Cir. 1998) (order). We vacate and remand.

After the magistrate judge dismissed the complaint with leave to amend, Jackson filed a motion in which he sought an extension of time to file an amended complaint and requested that the court send him a complete copy of his original complaint. Jackson attached to the motion an incomplete copy of the original complaint that the court had previously sent to him. The district court improperly construed the motion and attachment as Jackson's proposed amended complaint, and dismissed the action. We vacate the judgment and remand for Jackson to be allowed leave to file an amended complaint.

Jackson's request in his opening brief for a "recommendation that pro bono counsel be allowed" upon remand is denied.

Jackson shall bear his own costs on appeal.

VACATED and REMANDED.