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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

OLIVER HILSEN RATH,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee.

No. 08-15092

D.C. No. CV-07-05100-WHA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
William H. Alsup, District Judge, Presiding

Submitted October 19, 2010**

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

Oliver Hilsenrath appeals pro se the district court's Order dismissing his action to enjoin the United States from returning to Switzerland proof of service of process of a Swiss order. We have jurisdiction under 28 U.S.C. § 1291. Our

* 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).

review is de novo, *In re Arnold & Baker Farms* (*Arnold & Baker Farms v. United States*), 85 F.3d 1415, 1419 (9th Cir. 1996), and we affirm.

The district court properly dismissed the action because the United States Department of Justice's Office of International Affairs already had served the Swiss order on Hilsenrath in compliance with the Treaty Between the United States of America and the Swiss Confederation on Mutual Assistance in Criminal Matters, and there was no effective action for the district court to take. *See Tate v. University Medical Center of Southern Nevada*, 606 F.3d 631, 634 (9th Cir. 2010) (claim is moot when there is no present controversy as to which effective relief can be granted).

AFFIRMED.