

NOV 22 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CHRISTOPHER A. JONES,

Plaintiff - Appellant,

v.

BILL BOOK; et al.,

Defendants - Appellees.

No. 06-17199

D.C. No. CV-03-00276-HDM-
VPC

MEMORANDUM*

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

Submitted November 16, 2010**

Before: TASHIMA, BERZON, and CLIFTON, Circuit Judges.

Nevada state prisoner Christopher A. Jones appeals pro se from the district court's judgment in his 42 U.S.C. § 1983 action alleging that prison officials disciplined him in retaliation for threatening to file a lawsuit. 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 the district court's conclusions of law and for clear error its findings of fact and computation of damages following a bench trial. *Lentini v. Cal. Ctr. for the Arts, Escondido*, 370 F.3d 837, 843 (9th Cir. 2004). We affirm.

Following the bench trial, the district court properly denied judgment to Jones regarding three defendants because it found that those defendants reasonably interpreted Jones' threat as including conduct not protected by the First Amendment. *See Rhodes v. Robinson*, 408 F.3d 559, 567-68 (9th Cir. 2005) (listing elements of a retaliation claim in the prison context).

The district court did not clearly err in finding that Jones was entitled to only nominal damages. *See Lentini*, 370 F.3d at 850-51 (describing deferential standard applied to award of damages).

Jones' remaining contentions are unpersuasive.

AFFIRMED.