

JAN 14 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MICHAEL W. AUGUST,

Plaintiff - Appellee,

v.

**JOHN DOVEY, Director of Adult
Institutions; JAMES E. TILTON,
Secretary of the CDCR; MARTIN
VEAL, Warden; J. MARTINEZ,
Captain; P. MIRICH, Lt.; M. CRY,
Appeals Coordinator; S. MORENO,
Associate Warden; K. CARROLL,
Sergeant,**

Defendants - Appellants.

No. 07-16844

D.C. No. CV-06-01721-
LKK/CMK

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence K. Karlton, Senior District Judge, Presiding

Submitted January 12, 2011**
San Francisco, California

* 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).

Before: **KOZINSKI**, Chief Judge, **NOONAN** and **SILVERMAN**, Circuit Judges.

August doesn't allege any condition that enhanced his sentence in "such an unexpected manner as to give rise to protection by the Due Process Clause of its own force," or imposed an "atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." Ghana v. Pearce, 159 F.3d 1206, 1209 (9th Cir. 1998) (quoting Sandin v. Conner, 515 U.S. 472, 484 (1995)). His due process claim therefore fails.

REVERSED.