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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GEORGE BARTZ,

Plaintiff - Appellant,

v.

MAGGIE MILLER-STOUT; et al.,

Defendants - Appellees.

No. 09-36143

D.C. No. 2:08-cv-00272-CI

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Lonny R. Suko, Chief District Judge, Presiding

Submitted January 10, 2011**

Before: BEEZER, TALLMAN, and CALLAHAN, Circuit Judges.

George Bartz, a Washington state prisoner, appeals pro se from the district court's judgment dismissing his action alleging that defendants deducted military retirement benefits from his inmate trust account in violation of his constitutional rights. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a

* 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).

dismissal under the screening provisions of 28 U.S.C. §§ 1915(e) and 1915A for failure to state a claim. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000); *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order).

We vacate the judgment and remand to the district court with instructions to appoint counsel and direct service of the first amended complaint, so that the case may proceed to consideration on the merits beyond the screening stage.

VACATED and REMANDED.