

JAN 25 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>J.R. VERDUGO,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>ERIC MANKER, Deputy Sheriff for the County of San Bernardino; et al.,</p> <p>Defendants - Appellees.</p>
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No. 09-56219

D.C. No. 5:06-cv-00989-VBF-
MAN

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Valerie Baker Fairbank, District Judge, Presiding

Submitted January 10, 2011**

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

J.R. Verdugo appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action alleging Fourth and Fourteenth Amendment violations arising from a citation for misdemeanor battery. We have jurisdiction under 28

* 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).

U.S.C. § 1291. We review de novo a dismissal under 28 U.S.C. § 1915(e). *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order). We affirm.

The district court properly dismissed the false arrest claim because the complaint and the attachments thereto show that defendant Manker had probable cause to issue a citation to Verdugo. *See John v. City of El Monte*, 515 F.3d 936, 940 (9th Cir. 2008) (“Probable cause is an objective standard and the officer’s subjective intention in exercising his discretion to arrest is immaterial in judging whether his actions were reasonable for Fourth Amendment purposes. The determination whether there was probable cause is based upon the information the officer had at the time of making the arrest.” (internal citation omitted)).

The district court properly dismissed the equal protection and supervisory liability claims for failure to plead the necessary elements. *See Barren*, 152 F.3d at 1194-95 (Equal Protection Clause); *Jeffers v. Gomez*, 267 F.3d 895, 915 (9th Cir. 2001) (per curiam) (supervisory liability).

Verdugo’s remaining contentions are unpersuasive.

AFFIRMED.