

MAR 28 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BOBBY GENE GLOVER, JR.,

Plaintiff - Appellant,

v.

M. S. EVANS, Warden; et al.,

Defendants - Appellees.

No. 10-15761

D.C. No. 3:07-cv-01759-JSW

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Jeffrey S. White, District Judge, Presiding

Submitted March 8, 2011\*\*

Before: FARRIS, O'SCANNLAIN, and BYBEE, Circuit Judges.

Bobby Gene Glover, Jr., a California state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action for failure to exhaust administrative remedies under the Prison Litigation Reform Act, 42 U.S.C.

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\* 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).

§ 1997e(a). We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Wyatt v. Terhune*, 315 F.3d 1108, 1117 (9th Cir. 2003), and we vacate and remand.

The district court dismissed Glover’s action because he did not exhaust administrative remedies at the second and final levels of review. However, Glover received a favorable determination at the first level of review, where the prison granted his grievance in part, thereby satisfying Glover. In light of our recent decision, *Harvey v. Jordan*, 605 F.3d 681 (9th Cir. 2010), Glover “ha[d] no obligation to appeal from a grant of relief, or a partial grant that satisfie[d] him, in order to exhaust his administrative remedies.” *Id.* at 685. Accordingly, we vacate and remand for further proceedings.

The parties shall bear their own costs on appeal.

**VACATED and REMANDED.**