

JUN 06 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>PAUL SCOTT KLEIN,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p style="text-align: center;">v.</p> <p>HOWARD SKOLNIK; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>
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No. 10-15538

D.C. No. 3:08-cv-00177-ECR-
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MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Edward C. Reed, Jr., District Judge, Presiding

Submitted May 24, 2011**

Before: PREGERSON, THOMAS, and PAEZ, Circuit Judges.

Nevada state prisoner Paul Scott Klein appeals pro se from the district court’s summary judgment in his 42 U.S.C. § 1983 action alleging that the confiscation of his discounted magazine subscription renewal offer violated his First and Fourteenth Amendment rights. We have jurisdiction under 28 U.S.C.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

§ 1291. We review de novo. *Frost v. Symington*, 197 F.3d 348, 353 (9th Cir. 1999). We affirm.

The district court properly granted summary judgment on Klein’s First Amendment claim because Klein failed to raise a genuine dispute of material fact as to whether the contested prison regulations were rationally related to legitimate penological objectives. *See Turner v. Safley*, 482 U.S. 78, 89-91 (1987); *Frost*, 197 F.3d at 357; *Mauro v. Arpaio*, 188 F.3d 1054, 1059-60 (9th Cir. 1999).

The district court properly granted summary judgment on Klein’s Fourteenth Amendment due process claim because Klein failed to raise a genuine dispute of material fact about whether he was deprived of a liberty or property interest. *See Kildare v. Saenz*, 325 F.3d 1078, 1085 (9th Cir. 2003) (“Procedural due process claims require [] a deprivation of a constitutionally protected liberty or property interest[.]”).

Klein’s remaining contentions are unpersuasive.

Klein’s motion filed on June 28, 2010 concerning his prison copy account is denied as moot.

AFFIRMED.

FILED

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PREGERSON, Circuit Judge, dissenting:
I dissent.

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