

JUL 15 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOSE W. YEPEZ,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p style="text-align: center;">v.</p> <p>MELINDA HAAG, Asst. U.S. Attorney; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>
--

No. 10-55492

D.C. No. 2:09-cv-08550-SVW-
RNB

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Stephen V. Wilson, District Judge, Presiding

Submitted July 12, 2011**

Before: SCHROEDER, ALARCÓN, and LEAVY, Circuit Judges.

Federal prisoner Jose W. Yepez appeals pro se from the district court's judgment dismissing his action brought under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), alleging that a police

* 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).

detective and a prosecutor engaged in misconduct that resulted in Yepez's conviction and sentence to life imprisonment. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's dismissal under 28 U.S.C. § 1915A, *Ramirez v. Galaza*, 334 F.3d 850, 853 (9th Cir. 2003), and we affirm.

The district court properly dismissed Yepez's complaint because a judgment in favor of Yepez would necessarily imply the invalidity of his conviction or sentence, and Yepez has not shown that his conviction or sentence has been previously invalidated. *See Martin v. Sias*, 88 F.3d 774, 775 (9th Cir. 1996) (order).

We construe the judgment to be without prejudice. *See Trimble v. City of Santa Rosa*, 49 F.3d 583, 585 (9th Cir. 1995) (per curiam).

Yepez's remaining contentions are unpersuasive.

AFFIRMED.