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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOHN SMITH,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>JOHN MARSHALL, Warden; et al.,</p> <p>Defendants - Appellees.</p>

No. 10-56113

D.C. No. 2:09-cv-05440-RGK-JEM

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
R. Gary Klausner, District Judge, Presiding

Submitted September 27, 2011**

Before: SILVERMAN, W. FLETCHER, and MURGUIA, Circuit Judges.

California state prisoner John Smith appeals pro se from the district court’s judgment dismissing his Religious Land Use and Institutionalized Persons Act (“RLUIPA”) and 42 U.S.C. § 1983 action. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court’s dismissal under Federal Rule of

* 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).

Civil Procedure 12(b)(6). *Hebbe v. Pliler*, 627 F.3d 338, 341 (9th Cir. 2010). We affirm.

The district court properly dismissed Smith's First Amendment free exercise and RLUIPA claims because the prison's restrictions on third-party purchases of prayer oil did not substantially burden Smith's ability to practice his religion. *See* 42 U.S.C. § 2000cc-1(a)(1)-(2); *Shakur v. Schriro*, 514 F.3d 878, 884-85 (9th Cir. 2008).

We do not consider contentions raised for the first time on appeal. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999).

AFFIRMED.