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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DENNIS MICHAEL GIECK,

Plaintiff - Appellant,

v.

R. J. DONOVAN, Warden; et al.,

Defendants,

and

ROMERO, Chief Medical Officer; et al.,

Defendants - Appellees.

No. 10-55775

D.C. No. 3:08-cv-01460-DMS-
JMA

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Dana M. Sabraw, District Judge, Presiding

Submitted October 25, 2011**

Before: TROTT, GOULD, and RAWLINSON, Circuit Judges.

* 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).

Dennis Michael Gieck, a California state prisoner, appeals pro se from the district court's judgment as a matter of law under Fed. R. Civ. P. 50(a) in his 42 U.S.C. § 1983 action alleging constitutional violations. We have jurisdiction under 28 U.S.C. § 1291. We dismiss.

We are unable to consider Gieck's contention that the district court erred by granting defendants' motion for judgment as a matter of law because Gieck failed to provide any portion of the trial transcript. *See* Fed. R. App. P. 10(b)(2); *Hall v. Whitley*, 935 F.2d 164, 165 (9th Cir. 1991) (per curiam). To the extent that Gieck seeks to challenge the district court's denial of production of transcripts at government expense, the district court did not abuse its discretion because Gieck did not explain the issues that he would raise on appeal. *See McKinney v. Anderson*, 924 F.2d 1500, 1511-12 (9th Cir. 1991), *overruled on other grounds by Helling v. McKinney*, 502 U.S. 903 (1991) (reviewing for an abuse of discretion and noting that "[p]roduction of the transcript at government expense for an appellant in forma pauperis in a civil case is proper under 28 U.S.C. § 753 if a trial judge certifies that the appeal is not frivolous and presents a substantial question").

DISMISSED.