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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MARK COLLINS,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>ARNOLD SCHWARZENEGGER, Governor of California,</p> <p>Respondent - Appellee.</p>

No. 09-55198

D.C. No. 5:08-cv-01727-DSF

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dale S. Fischer, District Judge, Presiding

Submitted December 19, 2011**

Before: GOODWIN, WALLACE, and McKEOWN, Circuit Judges.

Former California state prisoner Mark Collins appeals pro se from the district court’s judgment dismissing his 28 U.S.C. § 2254 habeas petition without prejudice. We have jurisdiction under 28 U.S.C. § 2253, and we affirm.

* 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. Appellant. P. 34(a)(2).

Collins contends that the district court erred in dismissing his petition for having failed to state a cognizable claim under 28 U.S.C. § 2254. Contrary to Collins's contention, the district court correctly concluded that Collins's claims are not cognizable under § 2254 because he fails to state facts supporting a claim challenging the legality or duration of confinement. *See Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973); *see also Porter v. Ollison*, 620 F.3d 952, 958 (9th Cir. 2010) (“[A pro se] petitioner is not entitled to the benefit of every conceivable doubt[.]”)

Collins's motion to take judicial notice is denied as moot.

AFFIRMED.