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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>FRANK E. VOTH,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p style="text-align: center;">v.</p> <p>DON MILLS,</p> <p style="text-align: center;">Defendant - Appellee.</p>
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No. 11-35041

D.C. No. 3:09-cv-00423-HA

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Oregon  
Ancer L. Haggerty, District Judge, Presiding

Submitted May 15, 2012\*\*

Before: CANBY, GRABER, and M. SMITH, Circuit Judges.

Frank E. Voth, an Oregon state prisoner, appeals pro se from the district court’s summary judgment in his 42 U.S.C. § 1983 action alleging constitutional violations regarding his housing assignment and conditions of confinement. We

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\* 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).

have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004), and we affirm.

The district court properly granted summary judgment on the claims against Mills, the prison superintendent, because Voth failed to raise a genuine dispute of material fact as to whether Mills personally participated in the alleged violations, or knew of the alleged violations and failed to act. *See Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989).

The district court properly determined that Voth's claims for declaratory and injunctive relief were moot because Voth was no longer housed in the prison where the allegedly unconstitutional events occurred. *See Dilley v. Gunn*, 64 F.3d 1365, 1368 (9th Cir. 1995) (an inmate's transfer from a prison while his claims are pending will generally moot any claims for injunctive relief relating to that prison).

Voth's remaining contentions are unpersuasive.

**AFFIRMED.**