

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 26 2012

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

CHRIS B. GRINDLING,

Plaintiff - Appellant,

v.

TODD THOMAS, et al.,

Defendants - Appellees.

No. 11-17044

D.C. No. 2:11-cv-01496-FJM-  
MHB

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
Frederick J. Martone, District Judge, Presiding

Submitted July 17, 2012\*\*

Before: SCHROEDER, THOMAS, and SILVERMAN, Circuit Judges.

Hawaii state prisoner Chris B. Grindling appeals pro se from the district court's judgment dismissing his 28 U.S.C. § 2254 petition alleging condition of confinement claims. We have jurisdiction under 28 U.S.C. §§ 1291 and 2254. 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).

review de novo, *Jiminez v. Rice*, 276 F.3d 478, 481 (9th Cir. 2001), and we affirm.

Because Grindling should have brought his claims in a civil action under 42 U.S.C. § 1983 rather than as a habeas petition, the district court properly dismissed Grindling's action without prejudice. *See Nelson v. Campbell*, 541 U.S. 637, 643 (2004) ("constitutional claims that merely challenge the conditions of a prisoner's confinement . . . fall outside of [the] core [of habeas relief] and may be brought pursuant to § 1983").

Grindling's remaining contentions are unpersuasive.

**AFFIRMED.**