

AUG 14 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>FRANK MENDEZ,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p>v.</p> <p>CHARLES L. RYAN, Director of Arizona Dept. of Corrections at ADOC Central Office; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>
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No. 11-16734

D.C. No. 2:11-cv-00266-JAT-  
LOA

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
James A. Teilborg, District Judge, Presiding

Submitted August 8, 2012\*\*

Before: ALARCÓN, BERZON, and IKUTA, Circuit Judges.

Arizona state prisoner Frank Mendez appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging due process violations in

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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).

connection with a prison gang validation. We review de novo a dismissal under 28 U.S.C. § 1915A. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). We reverse and remand.

Dismissal of Mendez’s claims as barred by *Heck v. Humphrey*, 512 U.S. 477 (1994), was improper because a successful challenge to Mendez’s gang validation would not necessarily shorten the length of his confinement. *See Ramirez v. Galaza*, 334 F.3d 850, 858 (9th Cir. 2003) (“the favorable termination rule does not apply to § 1983 suits challenging a disciplinary hearing or administrative sanction that does not affect the overall length of the prisoner’s confinement”).

Mendez shall bear his own costs on appeal.

**REVERSED and REMANDED.**