

AUG 15 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOHN A. SCHNECK,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p>v.</p> <p>DAVID E. YAMAMOTO, Chief Executive Officer Sutter North Medical Foundation,</p> <p style="text-align: center;">Defendant - Appellee.</p>

No. 11-15893

D.C. No. 2:10-cv-03329-MCE-DAD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, Jr., District Judge, Presiding

Submitted August 8, 2012**

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

John A. Schneck appeals pro se from the district court’s judgment
dismissing his 42 U.S.C. § 1983 action arising from his termination as a patient by

* 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).

Sutter North Medical Foundation. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Caviness v. Horizon Cmty. Learning Ctr., Inc.*, 590 F.3d 806, 811-12 (9th Cir. 2010), and we affirm.

The district court properly dismissed Schneck's § 1983 action because Schneck failed to allege facts sufficient to show that defendant was acting under color of state law. *See id.* at 812, 815 (state action is a required element of a § 1983 claim, and mere fact that a private entity performs a function that serves the public does not make its acts state action); *Ascherman v. Presbyterian Hosp. of Pac. Med. Ctr., Inc.*, 507 F.2d 1103, 1104-05 (9th Cir. 1974) (private hospital's receipt of public funds and tax exempt status as a charitable organization insufficient to establish state action).

Schneck's contentions regarding judicial bias are unpersuasive. *See Taylor v. Regents of the Univ. of Cal.*, 993 F.2d 710, 712 (9th Cir. 1993) (per curiam) (adverse rulings alone are insufficient to demonstrate judicial bias).

AFFIRMED.