

SEP 24 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>THEODORE ANDREWS,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>KATHLEEN DICKINSON, Warden,</p> <p>Respondent - Appellee.</p>
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No. 11-17396

D.C. No. 2:11-cv-01081-DAD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Dale A. Drozd, Magistrate Judge, Presiding

Submitted September 10, 2012**

Before: WARDLAW, CLIFTON, and N.R. SMITH, Circuit Judges.

Theodore Andrews appeals pro se from the district court’s judgment dismissing his 28 U.S.C. § 2254 habeas petition. We have jurisdiction under 28 U.S.C. § 1291, 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. App. P. 34(a)(2).

Andrews contends that the district court erred in dismissing his petition for failure to state a cognizable claim. The district court correctly concluded that Andrews's petition challenging his "R" custody designation failed to raise a federally cognizable claim for which habeas relief may be granted. *See Preiser v. Rodriguez*, 411 U.S. 475, 489 (1973).

AFFIRMED.