

SEP 25 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MARK DOUGLAS TICKNOR,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p>v.</p> <p>HINSBURG, Badge#672; REED, Badge#874,</p> <p style="text-align: center;">Defendants - Appellees.</p>
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No. 11-17644

D.C. No. 2:10-cv-02450-FJM

MEMORANDUM\*

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

Submitted September 10, 2012\*\*

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

Arizona state prisoner Mark Douglas Ticknor appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging that defendants violated his civil rights in the course of his arrest and criminal prosecution. 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 under *Heck v. Humphrey*, 512 U.S. 477 (1994), because a judgment in Ticknor's favor on his claims would necessarily imply the invalidity of his criminal conviction for resisting arrest, and Ticknor failed to allege that this conviction has been invalidated. *See id.* at 486-87.

We construe the judgment as a dismissal without prejudice. *See Trimble v. City of Santa Rosa*, 49 F.3d 583, 585 (9th Cir. 1995) (per curiam).

**AFFIRMED.**