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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

THOMAS RANDALL HARGROVE;  
MICHAEL STEVEN NOVAK,

Plaintiffs - Appellants,

v.

WASHINGTON STATE DEPARTMENT  
OF CORRECTIONS; et al.,

Defendants - Appellees.

Nos. 11-35470  
11-35518

D.C. No. 2:10-cv-00363-RBL

MEMORANDUM\*

Appeals from the United States District Court  
for the Western District of Washington  
Ronald B. Leighton, District Judge, Presiding

Submitted November 13, 2012 \*\*

Before: CANBY, TROTT, and W. FLETCHER, Circuit Judges.

In these consolidated appeals, Washington state prisoners Thomas Randall Hargrove and Michael Steven Novak appeal pro se from the district court's

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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 these cases are suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

judgment dismissing their 42 U.S.C. § 1983 action alleging First Amendment violations. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's dismissal for failure to exhaust. *O'Guinn v. Lovelock Corr. Ctr.*, 502 F.3d 1056, 1059 (9th Cir. 2007). We may affirm on any ground supported by the record, *id.*, and we affirm.

Dismissal for failure to exhaust was proper because plaintiffs failed to demonstrate that they fully exhausted administrative remedies prior to filing suit. *See McKinney v. Carey*, 311 F.3d 1198, 1199-1200 (9th Cir. 2002) (per curiam) (requiring dismissal without prejudice when there is no pre-suit exhaustion).

Plaintiffs' contention that the district court failed to conduct a de novo review is unavailing.

**AFFIRMED.**