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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JASON J. LEE SUTTON,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>ELDON VAIL; et al.,</p> <p>Defendants - Appellees.</p>

No. 11-35513

D.C. No. 2:11-cv-05023-JLQ

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Justin L. Quackenbush, District Judge, Presiding

Submitted November 13, 2012**

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

Washington state prisoner Jason J. Lee Sutton appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action alleging denial of the right to practice his religion in violation of the First Amendment, the Religious

* 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). Accordingly, Sutton’s request for oral argument is denied.

Land Use and Institutionalized Person’s Act (“RLUIPA”), and the Equal Protection Clause of the Fourteenth Amendment. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal for failure to state a claim under 28 U.S.C. § 1915A. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). We affirm.

The district court properly dismissed Sutton’s equal protection claim because Sutton failed to allege facts showing that he was intentionally treated differently from similarly situated inmates. *See Thornton v. City of St. Helens*, 425 F.3d 1158, 1166-67 (9th Cir. 2005).

The district court properly dismissed Sutton’s First Amendment and RLUIPA claims because Sutton failed to allege facts showing that defendants’ actions substantially burdened his ability to practice his religion. *See Cruz v. Beto*, 405 U.S. 319, 322 n.2 (1972) (per curiam) (“[A] place of worship need not be provided for every faith regardless of size; nor must a chaplain, priest, or minister be provided without regard to the extent of the demand.”).

Sutton’s motion for appointment of counsel is denied.

AFFIRMED.