

FEB 13 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TONY B. ALEXANDER,

Petitioner - Appellant,

v.

SCOTT SCHLEDER, Southeast Regional
DHO; et. al.,

Respondents - Appellees.

No. 11-16791

D.C. No. 1:09-cv-00434-DLB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Dennis L. Beck, Magistrate Judge, Presiding**

Submitted February 11, 2013***

Before: FERNANDEZ, TASHIMA, and WARDLAW, Circuit Judges.

Federal prisoner Tony B. Alexander appeals pro se from the district court's

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The parties consented to proceed before a magistrate judge.

*** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). Accordingly, Alexander's request for oral argument is denied.

judgment denying his 28 U.S.C. § 2241 habeas petition. We have jurisdiction under 28 U.S.C. § 1291. We review the denial of a § 2241 petition de novo. *See Tablada v. Thomas*, 533 F.3d 800, 805 (9th Cir. 2008). The district court's factual findings are reviewed for clear error. *See McNeely v. Blanas*, 336 F.3d 822, 826 (9th Cir. 2003). We affirm.

Alexander contends that his due process rights were violated in the prison disciplinary proceedings finding him guilty of two instances of engaging in sexual acts. The record does not support his contention. The district court properly denied the petition because Alexander received all process that was due and some evidence supports the disciplinary findings. *See Superintendent v. Hill*, 472 U.S. 445, 455 (1985); *Wolff v. McDonnell*, 418 U.S. 539, 563-67 (1974).

We decline to consider Alexander's argument alleging a violation of *Brady v. Maryland*, 373 U.S. 83 (1963), because it was neither developed in the district court nor raised in his opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam).

AFFIRMED.