

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 03 2013

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

RICKY LEE GRUNDY,

Plaintiff - Appellant,

v.

HOWARD SKOLNIK; et al.,

Defendants - Appellees.

No. 11-16136

D.C. No. 2:07-cv-00694-RLH-  
LRL

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Roger L. Hunt, District Judge, Presiding

Submitted March 12, 2013\*\*

Before: PREGERSON, REINHARDT, and W. FLETCHER, Circuit Judges.

Ricky Lee Grundy, a former Nevada state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging that prison officials violated his First, Eighth and Fourteenth Amendment rights. 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. *Gibson v. County of Washoe, Nev.*, 290 F.3d 1175, 1180 (9th Cir. 2002). We affirm.

The district court properly granted summary judgment because Grundy failed to present any evidence creating a genuine dispute of material fact as to whether defendants violated his constitutional rights. *See* Fed. R. Civ. P. 56 (setting forth the evidentiary support required in opposing a motion for summary judgment); *Bias v. Moynihan*, 508 F.3d 1212, 1219 (9th Cir. 2007) (affirming summary judgment where pro se non-moving party presented no evidence creating a genuine dispute of material fact).

The district court did not abuse its discretion in denying Grundy's motions to file a second amended complaint because the court had already provided notice of the deficiencies and an opportunity to amend, and further amendment would unfairly prejudice the defendants. *See Chodos v. West Publ'g Co.*, 292 F.3d 992, 1003 (9th Cir. 2002) (setting forth standard of review and noting that the district court's discretion is particularly broad when it has already granted leave to amend).

Defendants' motion to strike portions of Grundy's appendix that were not part of the district court record is granted.

Grundy's Motion to Vacate the Appellate Commissioner's February 22,  
2013 order is denied.

**AFFIRMED.**