

APR 23 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>De'MARIAN A. CLEMONS,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>BRIAN WILLIAMS, Sr.; et al.,</p> <p>Defendants - Appellees.</p>

No. 12-16792

D.C. No. 2:11-cv-01518-PMP-PAL

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Philip M. Pro, District Judge, Presiding

Submitted April 16, 2013**

Before: CANBY, IKUTA, and WATFORD, Circuit Judges.

Nevada state prisoner De'Marian A. Clemons appeals pro se from the district court's judgment dismissing for failure to exhaust administrative remedies his 42 U.S.C. § 1983 action alleging deliberate indifference to serious medical

* 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).

needs. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Wyatt v. Terhune*, 315 F.3d 1108, 1117 (9th Cir. 2003). We affirm.

The district court properly dismissed Clemons's action because Clemons did not properly exhaust his administrative remedies. *See Woodford v. Ngo*, 548 U.S. 81, 93-95 (2006) (proper exhaustion is mandatory and requires adherence to administrative procedural rules).

We do not consider Clemons's allegations concerning retaliation raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam).

AFFIRMED.