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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MATTHEW LOUIS JOHNSON,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>DARR, Correctional Officer, Captain of the Prison,</p> <p>Defendant - Appellee.</p>
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No. 12-55532

D.C. No. 3:10-cv-02334-WQH

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
William Q. Hayes, District Judge, Presiding

Submitted June 18, 2013**

Before: TALLMAN, M. SMITH, and HURWITZ, Circuit Judges.

California state prisoner Matthew Louis Johnson appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action for failure to exhaust administrative remedies. We have jurisdiction under 28 U.S.C. § 1291.

* 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).

We review de novo, *Wyatt v. Terhune*, 315 F.3d 1108, 1117 (9th Cir. 2003), and affirm.

The district court properly dismissed Johnson’s action without prejudice because Johnson failed to exhaust the prison grievance procedures concerning his claims. *See Woodford v. Ngo*, 548 U.S. 81, 93-95 (2006) (holding that “proper exhaustion” is mandatory and requires adherence to administrative procedural rules).

Darr’s request for judicial notice is denied.

AFFIRMED.