

MAY 30 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JAMES BRIAN HAMILTON,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p>v.</p> <p>CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>

No. 13-16405

D.C. No. 1:12-cv-02084-GSA

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Gary S. Austin, Magistrate Judge, Presiding**

Submitted May 13, 2014***

Before: CLIFTON, BEA, and WATFORD, Circuit Judges.

Former California state prisoner James Brian Hamilton appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging that

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

** Hamilton consented to proceed before a magistrate judge. See 28 U.S.C. § 636(c).

*** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

he was subjected to discrimination in violation of his equal protection rights. 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), and we affirm.

The district court properly dismissed Hamilton's action because Hamilton failed to allege facts showing that defendants intentionally treated him differently from others who were similarly situated without a rational basis, *see N. Pacifica LLC v. City of Pacifica*, 526 F.3d 478, 486 (9th Cir. 2008), or intentionally discriminated against him on the basis of his membership in a protected class, *see Thornton v. City of St. Helens*, 425 F.3d 1158, 1166 (9th Cir. 2005).

AFFIRMED.