

JUN 18 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WILLIE T. SMITH,

Plaintiff - Appellant,

v.

J. BARNETTE,

Defendant - Appellee.

No. 13-15643

D.C. No. 3:12-cv-00024-LRH-
VPC

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Larry R. Hicks, District Judge, Presiding

Submitted June 12, 2014**

Before: McKEOWN, WARDLAW, and M. SMITH, Circuit Judges.

Nevada state prisoner Willie T. Smith appeals pro se from the district court's judgment enforcing the parties' settlement agreement and dismissing his 42 U.S.C. § 1983 action alleging Eighth Amendment violations. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion, *Doi v. Halekulani Corp.*,

* 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).

276 F.3d 1131, 1136 (9th Cir. 2002), and we affirm.

The district court did not abuse its discretion by enforcing the settlement agreement in light of its findings that Smith entered into the agreement on the record before a neutral mediator. *See id.* at 1137-38, 1140 (no abuse of discretion where district court concluded that plaintiff's assent in open court constituted a binding agreement to settle); *Callie v. Near*, 829 F.2d 888, 890 (9th Cir. 1987) ("It is well settled that a district court has the equitable power to enforce summarily an agreement to settle a case pending before it.").

The district court did not err in rejecting Smith's contention that he was under duress when he expressed his agreement to the terms of the settlement, and did not abuse its discretion in denying Smith's motions for appointment of counsel. We reject Smith's contention that the district court ignored his state law claims.

AFFIRMED.