

AUG 25 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>HOANG MINH TRAN,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p style="text-align: center;">v.</p> <p>WILLIAM D. GORE; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>
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No. 13-55993

D.C. No. 3:10-cv-02682-BTM-  
BLM

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Barry T. Moskowitz, District Judge, Presiding

Submitted August 13, 2014\*\*

Before: SCHROEDER, THOMAS, and HURWITZ, Circuit Judges.

Former California state prisoner Hoang Minh Tran appeals pro se from the district court’s judgment dismissing without prejudice his 42 U.S.C. § 1983 action alleging various claims arising from his pre-trial detention. We dismiss the appeal for lack of jurisdiction.

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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).

Tran seeks review of the district court's order granting his motion For voluntary dismissal without prejudice. However, under the final judgment rule, a voluntary dismissal without prejudice under Federal Rule of Civil Procedure 41 is not a final judgment from which Tran may appeal because it is "not adverse" to his interests and he "is free to seek an adjudication of the same issue at another time in the same or another forum." *Concha v. London*, 62 F.3d 1493, 1506-07 (9th Cir. 1995); *see also Romoland Sch. Dist. v. Inland Empire Energy Ctr.*, 548 F.3d 738, 747, 750 (9th Cir. 2008) (discussing when district court's order is final and appealable under the final judgment rule embodied in 28 U.S.C. § 1291).

Moreover, Tran's appeal does not fall within any recognized exceptions to the final judgment rule. *See, e.g., Romoland*, 548 F.3d at 750 (under limited circumstances, appellate court may treat a dismissal without prejudice as one with prejudice with the clear, consistent intent of the court and the parties); *James v. Price Stern Sloan, Inc.*, 283 F.3d 1064, 1066-70 (9th Cir. 2002) (under certain limited circumstances, appellate court may review a judgment dismissing without prejudice claims remaining after the district court enters an adverse partial judgment against a party).

Because we dismiss this appeal for lack of jurisdiction, we do not address Tran's contentions regarding the merits of his claims; interlocutory orders denying

his motions for appointment of counsel, for a competency hearing, and for appointment of another inmate as “next friend” or guardian ad litem; and the district court’s alleged failure to review all the evidence and other structural errors.

Tran’s motions to submit supplemental information and for judicial notice, filed on September 30, November 15, and November 25, 2013, are granted.

**DISMISSED.**