NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 02 2015

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

LaKEITH L. McCOY, AKA LaKeith LeRoy McCoy,

Plaintiff - Appellant,

v.

TONI CAREL O'NEILL, in individual capacity; et al.,

Defendants - Appellees.

No. 14-56334

D.C. No. 2:13-cv-08674-RGK-DFM

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
R. Gary Klausner, District Judge, Presiding

Submitted June 22, 2015**

Before: HAWKINS, GRABER, and W. FLETCHER, Circuit Judges.

California state prisoner LaKeith L. McCoy, a.k.a. LaKeith LeRoy McCoy, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging various constitutional violations in connection with his criminal

* 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).

trial transcript. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Hamilton v. Brown*, 630 F.3d 889, 892 (9th Cir. 2011) (dismissal under 28 U.S.C. § 1915A); *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order) (dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii)). We may affirm on any basis supported by the record. *Hartmann v. Cal. Dep't of Corr. & Rehab.*, 707 F.3d 1114, 1121 (9th Cir. 2013). We affirm.

Dismissal of McCoy's action was proper because McCoy failed to allege facts sufficient to show that defendants violated his constitutional rights. *See Chudacoff v. Univ. Med. Ctr. of S. Nev.*, 649 F.3d 1143, 1149 (9th Cir. 2011) (to establish § 1983 liability, a plaintiff must show a deprivation of a right secured by the Constitution and laws of the United States); *Hebbe v. Pliler*, 627 F.3d 338, 341-42 (9th Cir. 2010) (although pro se pleadings are to be construed liberally, a plaintiff still must present factual allegations sufficient to state a plausible claim for relief).

To the extent that McCoy seeks a new trial or alleges that his conviction was invalid, dismissal was proper because success in this action would necessarily demonstrate the invalidity of McCoy's confinement. *See Wilkinson v. Dotson*, 544 U.S. 74, 80-82 (2005) (a prisoner's § 1983 action is barred if success "would necessarily demonstrate the invalidity of confinement or its duration[,]" unless "the

conviction or sentence has already been invalidated" (citation and internal quotation marks omitted)).

McCoy's contentions regarding his ability to file objections and to obtain discovery are unpersuasive.

AFFIRMED.