

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

DEC 16 2015

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

ROBERTO HERRERA,

Plaintiff - Appellant,

v.

PERRY, individual and official capacity;  
et al.,

Defendants - Appellees.

No. 14-56003

D.C. No. 2:12-cv-01873-JAK-  
DTB

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
John A. Kronstadt, District Judge, Presiding

Submitted December 9, 2015\*\*

Before: WALLACE, RAWLINSON, and IKUTA, Circuit Judges.

Roberto Herrera, a California state prisoner, appeals pro se from the district court's judgment in his 42 U.S.C. § 1983 action alleging that defendants violated his constitutional rights in obtaining a state court criminal conviction. We have

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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).

jurisdiction under 28 U.S.C. § 1291. We review de novo. *Guerrero v. Gates*, 442 F.3d 697, 703 (9th Cir. 2006) (dismissal under Fed. R. Civ. P. 12(b)(6)); *Whitaker v. Garcetti*, 486 F.3d 572, 579 (9th Cir. 2007) (dismissal under *Heck v. Humphrey*, 512 U.S. 477 (1994)). We affirm.

The district court properly dismissed Herrera's action for damages as *Heck*-barred because if successful, his claims would necessarily imply the invalidity of his conviction, and Herrera has not demonstrated that his conviction has been overturned. *See Heck*, 512 U.S. at 486-87 (the district court must dismiss a damages action, which, if successful, would necessarily imply the invalidity of a conviction, absent a showing that the conviction has been overturned).

Herrera's motion for copies of certain district court documents, filed on March 16, 2015, is denied as moot.

**AFFIRMED.**