

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 16 2015

FOR THE NINTH CIRCUIT

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

RICK S. SANDOVAL,

Plaintiff - Appellant,

v.

CHINO STATE PRISON, official capacity;
et al.,

Defendants - Appellees.

No. 15-55584

D.C. No. 5:15-cv-00327-JLS-KK

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Josephine L. Staton, District Judge, Presiding

Submitted December 9, 2015**

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

California state prisoner Rick S. Sandoval appeals pro se from the district court's judgment dismissing as time-barred his 42 U.S.C. § 1983 action alleging civil rights violations stemming from overcrowding in a dayroom at Chino State

* 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).

Prison. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Fink v. Shedler*, 192 F.3d 911, 913-14 (9th Cir. 1999), and we affirm.

The district court properly dismissed Sandoval's action as time-barred because, even with the benefit of statutory tolling due to incarceration, Sandoval failed to file his action within the applicable statute of limitations. *See* Cal. Civ. Proc. Code §§ 335.1, 352.1(a) (two-year statute of limitations for personal injury claims; two-year tolling period due to incarceration); *Canatella v. Van De Kamp*, 486 F.3d 1128, 1132-33 (9th Cir. 2007) (forum state's personal injury statute of limitations and tolling laws apply to § 1983 actions; federal law determines when a civil rights claim accrues, which is "when the plaintiff knows or has reason to know of the injury which is the basis of the action" (citation and internal quotation marks omitted)). Moreover, Sandoval failed to show that he was entitled to equitable tolling. *See Fink*, 192 F.3d at 916 (three-pronged test for equitable tolling in California).

AFFIRMED.