

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 4 2016

FOR THE NINTH CIRCUIT

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

ABDELKAKER MORCELI,

No. 15-15187

Plaintiff-Appellant,

D.C. No. 1:11-cv-00685-AWI-
BAM

v.

W. MEYERS, Lieutenant,

MEMORANDUM*

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, District Judge, Presiding

Submitted October 25, 2016**

Before: LEAVY, SILVERMAN, and GRABER, Circuit Judges.

California state prisoner Abdelkaker Morceli appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging a violation of his First Amendment free exercise rights. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Jones v. Williams*, 791 F.3d 1023, 1030 (9th Cir.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

2015), and we affirm.

The district court properly granted summary judgment because Morceli failed to raise a genuine dispute of material fact as to whether defendant was responsible for the challenged headwear policy's creation and enforcement. *See id.* at 1031-32 (setting forth elements of a § 1983 free exercise claim); *Starr v. Baca*, 652 F.3d 1202, 1207-08 (9th Cir. 2011) (setting forth elements for supervisory liability under § 1983). Contrary to Morceli's contentions, the district court applied the proper standard under Federal Rule of Civil Procedure 56 in granting summary judgment where Morceli's contentions were not supported by facts. *See Arpin v. Santa Clara Valley Transp. Agency*, 261 F.3d 912, 922 (9th Cir. 2001) (“[C]onclusory allegations unsupported by factual data are insufficient to defeat [a defendant's] summary judgment motion.”).

AFFIRMED.