

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 27 2021

FOR THE NINTH CIRCUIT

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

LANCE ELLIOT WILLIAMS,

No. 20-55393

Plaintiff-Appellant,

D.C. No. 3:17-cv-02345-MMA-  
JLB

v.

BUENOSTROME, Correctional Officer; et  
al.,

MEMORANDUM\*

Defendants-Appellees.

Appeal from the United States District Court  
for the Southern District of California  
Michael M. Anello, District Judge, Presiding

Submitted May 18, 2021\*\*

Before: CANBY, FRIEDLAND, and VANDYKE, Circuit Judges.

California state prisoner Lance Elliot Williams appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging violations of the First, Eighth, and Fourteenth Amendments. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's summary judgment

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\* 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).

for failure to exhaust administrative remedies. *Albino v. Baca*, 747 F.3d 1162, 1168 (9th Cir. 2014). We affirm.

The district court properly granted summary judgment because Williams failed to exhaust his administrative remedies and failed to raise a genuine dispute of material fact as to whether administrative remedies were effectively unavailable. *See Woodford v. Ngo*, 548 U.S. 81, 90 (2006) (“[P]roper exhaustion of administrative remedies . . . means using all steps that the agency holds out, and doing so properly (so that the agency addresses the issues on the merits).” (citation, internal quotation marks, and emphasis omitted)); *Andres v. Marshall*, 867 F.3d 1076, 1079 (9th Cir. 2017) (exhaustion is measured at the time the action is filed); *McBride v. Lopez*, 807 F.3d 982, 986-87 (9th Cir. 2015) (to show that a threat rendered the prison grievance system unavailable, a prisoner must show that he was actually deterred from filing a grievance).

We reject as without merit Williams’s contention that the district court should have considered as evidence Williams’s unverified opposition to summary judgment.

**AFFIRMED.**