

JUL 8 2022

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAMES O. WRIGHT, Jr.,

Plaintiff-Appellant,

v.

E. M. HENDRICHSEN, #3603; et al.,

Defendants-Appellees.

No. 19-35676

D.C. No. 3:17-cv-05961-RBL

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Ronald B. Leighton, District Judge, Presiding

Submitted July 6, 2022**

Before: WALLACE, FERNANDEZ, and SILVERMAN, Circuit Judges.

James Wright appeals from the district court's summary judgment in favor of two defendant police officers in his 28 U.S.C. § 1983 civil rights action alleging malicious prosecution. We have jurisdiction pursuant to 28 U.S.C. § 1291. We

* 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).

review the summary judgment de novo, *Newman v. County of Orange*, 457 F.3d 991, 993 (9th Cir. 2006), and affirm.

Summary judgment was proper for the defendants on Wright's malicious prosecution claim because Wright failed to overcome the presumption that the prosecutor exercised independent judgment in determining that probable cause existed. "To rebut the presumption of independent judgment and to survive summary judgment on a malicious prosecution claim, a plaintiff must provide more than an account of the incident in question that conflicts with the account of the officers involved." *Id.* at 995. Thus, Wright's own account of the incident, without more, does not create a genuine issue of material fact.

AFFIRMED.