

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 23 2024

FOR THE NINTH CIRCUIT

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

DONALD L. CALVIN,

Plaintiff-Appellant,

v.

JERI BOE, Superintendent, Clallam Bay  
Corrections Center; EVANS, Lieutenant,  
Clallam Bay Corrections Center; JOHN  
DOE, 1; Officer, Clallam Bay Corrections  
Center; JOHN DOE, 2; Officer, Clallam Bay  
Corrections Center; JOHN DOE, 3; Sergeant,  
Clallam Bay Corrections Center; JOHN  
DOE, 4; Officer, Clallam Bay Corrections  
Center; JOHN DOE, 5; Officer, Clallam Bay  
Corrections Center,

Defendants-Appellees.

No. 22-35593

D.C. No. 3:22-cv-05217-RSM

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
Ricardo S. Martinez, District Judge, Presiding

Submitted July 16, 2024\*\*

Before: SCHROEDER, VANDYKE, and KOH, Circuit Judges.

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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).

Donald L. Calvin, a Washington state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging various claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under 28 U.S.C. § 1915A. *Wilhelm v. Rotman*, 680 F.3d 1113, 1118 (9th Cir. 2012). We vacate and remand.

The district court dismissed Calvin's action as barred by the applicable statute of limitations. However, some of Calvin's allegations relating to prison officials' refusal to release him from disciplinary confinement for several months appear to have taken place less than three years before Calvin filed the complaint. *See Boston v. Kitsap County*, 852 F.3d 1182, 1185 (9th Cir. 2017) (under Washington law, a three-year statute of limitations applies to § 1983 actions). Because some of Calvin's action appears to be timely, we vacate the district court's judgment and remand for further proceedings, including leave to file an amended complaint.

The motion for a stay of appellate proceedings (Docket Entry No. 40) is denied.

**VACATED and REMANDED.**