

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 27 2026

FOR THE NINTH CIRCUIT

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

TONY PENWELL,

Plaintiff - Appellant,

v.

WASHINGTON DEPARTMENT OF
CORRECTIONS; CHERYL STRANGE,
DOC Secretary; ROBERT JACKSON,
WSP Superintendent; WINDOW, Custody
Unit Supervisor; JOHN DOE A, Corrections
Officer at Washington State Penitentiary;
JOHN DOE B, Corrections Officer at
Washington State Penitentiary,

Defendants - Appellees.

No. 25-4003

D.C. No.

3:25-cv-05230-RAJ

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Richard A. Jones, District Judge, Presiding

Submitted August 25, 2026**

Before: SILVERMAN, N.R. SMITH, and DE ALBA, Circuit Judges.

* 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).

Washington state prisoner Tony Penwell appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging due process violations related to the loss of his personal property. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Nordstrom v. Ryan*, 762 F.3d 903, 908 (9th Cir. 2014) (dismissal under 28 U.S.C. § 1915A); *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012) (dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii)). We affirm.

The district court properly dismissed Penwell's action because Penwell failed to allege facts sufficient to state a due process claim. *See Parratt v. Taylor*, 451 U.S. 527, 543-44 (1981) (noting that there is no due process violation when the deprivation of property is "a result of the unauthorized failure of agents of the State to follow established state procedure," and the State provides remedies that "could have fully compensated the respondent for the property loss he suffered"), *overruled in part on other grounds by Daniels v. Williams*, 474 U.S. 327 (1986); *Joshua v. Newell*, 871 F.2d 884, 887 (9th Cir. 1987) (recognizing that the post-deprivation tort remedy under Wash. Rev. Code §§ 4.92.005-.290 satisfies due process).

We do not consider arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

The motion (Docket Entry No. 6) for appointment of pro bono counsel is

denied.

AFFIRMED.