

SEP 29 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JAMES MINCOFF,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>ERIC H. HOLDER, Jr., Attorney General; et al.,</p> <p>Respondents - Appellees.</p>
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No. 08-56990

D.C. No. 3:08-cv-00524-DMS

MEMORANDUM\*

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

Submitted September 13, 2010\*\*

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Federal prisoner James Mincoff appeals from the district court’s judgment dismissing his 28 U.S.C. § 2241 habeas petition. We have jurisdiction under 28 U.S.C. § 2253, and we affirm.

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

Mincoff contends that the district court erred by dismissing his petition on the grounds that he failed to exhaust administrative remedies because any attempt to exhaust such remedies would have been futile. The record reflects that the district court did not err by dismissing the petition as unexhausted. *See Martinez v. Roberts*, 804 F.2d 570, 571 (9th Cir. 1986) (federal prisoners required to exhaust administrative remedies prior to bringing a petition for a writ of habeas corpus); *see also Terrell v. Brewer*, 935 F.2d 1015, 1019 (9th Cir. 1991) (noting the exceptions to exhaustion and concluding that petitioner did not show such exceptions to be applicable).

**AFFIRMED.**