

OCT 06 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

THERON N. LYNCH,

Plaintiff - Appellant,

v.

ALAMEDA COUNTY; et al.,

Defendants - Appellees.

No. 09-15192

D.C. No. 4:08-cv-05424-PJH

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Phyllis J. Hamilton, District Judge, Presiding

Submitted September 13, 2010**

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

Theron N. Lynch, a California state prisoner, appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action alleging that the abstract of judgment for his sentence is incorrect and requires him to serve his full sentence. We have jurisdiction under 28 U.S.C. § 1291. We review de novo.

* 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).

Resnick v. Hayes, 213 F.3d 443, 447 (9th Cir. 2000). We affirm.

The district court properly dismissed the action as *Heck*-barred because a judgment in Lynch’s favor “would necessarily imply the invalidity of his . . . sentence,” and Lynch has not demonstrated that his sentence has already been invalidated. *Heck v. Humphrey*, 512 U.S. 477, 487 (1994).

AFFIRMED.