

OCT 05 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALLAN G. EDWARDS, JR.,

Plaintiff - Appellant,

v.

JAMES M. COPENHAVER,

Defendant - Appellee.

No. 09-17203

D.C. No. 3:08-cv-00623-LRH-
VPC

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Larry R. Hicks, District Judge, Presiding

Submitted September 22, 2010**

Before: WALLACE, HAWKINS, and THOMAS, Circuit Judges.

The district court did not clearly err by finding that Allan G. Edwards, Jr., (“Edwards”) failed to establish that he was domiciled in a state diverse from defendant. *See Lew v. Moss*, 797 F.2d 747, 750 (9th Cir. 1986) (“[D]omicile is evaluated in terms of objective facts, and . . . statements of intent are entitled to

* 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)*.

little weight when in conflict with facts.”) (internal quotation marks and citation omitted); *see also Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857-58 (9th Cir. 2001) (“the party asserting diversity jurisdiction bears the burden of proof”). Accordingly, the district court properly dismissed the action for lack of diversity jurisdiction. *See* 28 U.S.C. § 1332(a).

Edwards’s remaining contentions are unpersuasive.

Edwards’s motion to file an addendum to his reply brief is granted.

AFFIRMED.