

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 30 2017

FOR THE NINTH CIRCUIT

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

CHARLES ANTHONY BROOKS,

No. 16-17257

Plaintiff-Appellant,

D.C. No. 5:15-cv-05237-HRL

v.

MEMORANDUM*

CHARLES EDWARDS BROOKS,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of California
Howard R. Lloyd, Magistrate Judge, Presiding**

Submitted June 26, 2017***

Before: PAEZ, BEA, and MURGUIA, Circuit Judges.

Charles Anthony Brooks appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action seeking the return of lottery tickets and payment of alleged winnings. We have jurisdiction under 28 U.S.C. § 1291. We

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** Appellant consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

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

review de novo a dismissal for failure to state a claim under 28 U.S.C. § 1915A.

Hamilton v. Brown, 630 F.3d 889, 892 (9th Cir. 2011). We affirm.

The district court properly dismissed appellant’s action because appellant failed to allege facts sufficient to show that he was “(1) depriv[ed] of a right secured by the Constitution and laws of the United States, and (2) that the deprivation was committed by a person acting under color of state law.”

Chudacoff v. Univ. Med. Ctr. of S. Nev., 649 F.3d 1143, 1149 (9th Cir. 2011).

Because we affirm on the basis of failure to state a claim, we do not consider appellant’s contentions regarding the district court’s alternate basis for dismissal.

AFFIRMED.