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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CLIFFORD L. JACKSON,

Plaintiff - Appellant,

v.

MONTEREY COUNTY JAIL; et al.,

Defendants - Appellees.

No. 09-16618

D.C. No. 3:07-cv-01202-MMC

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Maxine M. Chesney, District Judge, Presiding

Submitted December 14, 2010\*\*

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

California state prisoner Clifford L. Jackson appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging unconstitutional conditions of confinement arising from asbestos exposure. We have jurisdiction

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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).

under 28 U.S.C. § 1291. We review de novo dismissal for failure to state a claim. *Cousins v. Lockyer*, 568 F.3d 1063, 1067 (9th Cir. 2009). We affirm.

The district court properly dismissed Jackson's 42 U.S.C. § 1983 claims against all defendants because Jackson failed adequately to allege physical injury and thus his claim for damages was barred under the Prison Litigation Reform Act. *See* 42 U.S.C. § 1997(e)(e); *see also* *Oliver v. Keller*, 289 F.3d 623, 625-28 (9th Cir. 2002) (the physical injury requirement applies to pre-trial detention claims and requires more than de minimis physical injury).

We do not consider Jackson's contentions regarding judicial bias because they were not raised in his opening brief. *See* *Brown v. Cal. Dep't of Corr.*, 554 F.3d 747, 752 n.3 (9th Cir. 2009) (issues not raised in the opening brief are waived). We do not consider Jackson's contentions related to the Comprehensive Environmental Response Compensation and Liability Act and other claims not raised before the district court. *See* *Campbell v. Burt*, 141 F.3d 927, 931 (9th Cir. 1998) (issues not raised before the district court are waived on appeal).

We have reviewed Jackson's remaining contentions and find them unpersuasive.

**AFFIRMED.**