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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LANCE McDERMOTT,

Plaintiff - Appellant,

v.

PATRICK R. DONAHUE, Postmaster
General United States Postal Service; et
al.,*

Defendants - Appellees.

No. 09-35999

D.C. No. 2:09-cv-00776-RSL

MEMORANDUM**

Appeal from the United States District Court
for the Western District of Washington
Robert S. Lasnik, Chief District Judge, Presiding

Submitted December 14, 2010***

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

* Patrick R. Donahue is substituted for his predecessor, John Potter, as Postmaster General, under Fed. R. App. P. 43(c)(2).

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

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

Lance McDermott appeals pro se from the district court's judgment dismissing his action concerning the closure of a postal facility, for lack of jurisdiction and failure to state a claim. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Rhoades v. Avon Prods., Inc.*, 504 F.3d 1151, 1156 (9th Cir. 2007). We affirm.

The district court properly dismissed McDermott's claims under the Freedom of Information Act ("FOIA") for lack of subject matter jurisdiction. *See United States v. Steele (In re Steele)*, 799 F.2d 461, 465-66 (9th Cir. 1986) (failure to exhaust administrative remedies required under FOIA before seeking judicial review deprives district court of jurisdiction).

The district court properly dismissed McDermott's remaining claims for lack of standing because the injuries he alleged were merely "conjectural" and "hypothetical." *City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983).

McDermott's remaining contentions are unpersuasive.

AFFIRMED.