

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NOV 4 2016

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

ABDELKAKER MORCELI,

Plaintiff-Appellant,

v.

W. MEYERS, Lieutenant,

Defendant-Appellee.

No. 15-15187

D.C. No. 1:11-cv-00685-AWI-
BAM

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, District Judge, Presiding

Submitted October 25, 2016**

Before: LEAVY, SILVERMAN, and GRABER, Circuit Judges.

California state prisoner Abdelkaker Morceli appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging a violation of his First Amendment free exercise rights. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Jones v. Williams*, 791 F.3d 1023, 1030 (9th Cir.

* 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).

2015), and we affirm.

The district court properly granted summary judgment because Morceli failed to raise a genuine dispute of material fact as to whether defendant was responsible for the challenged headwear policy's creation and enforcement. *See id.* at 1031-32 (setting forth elements of a § 1983 free exercise claim); *Starr v. Baca*, 652 F.3d 1202, 1207-08 (9th Cir. 2011) (setting forth elements for supervisory liability under § 1983). Contrary to Morceli's contentions, the district court applied the proper standard under Federal Rule of Civil Procedure 56 in granting summary judgment where Morceli's contentions were not supported by facts. *See Arpin v. Santa Clara Valley Transp. Agency*, 261 F.3d 912, 922 (9th Cir. 2001) (“[C]onclusory allegations unsupported by factual data are insufficient to defeat [a defendant's] summary judgment motion.”).

AFFIRMED.