

JAN 14 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BENJAMIN ADAMS,

Plaintiff - Appellant,

v.

BRIDA, Correctional Officer,

Defendant - Appellee,

and

TERESA A. SCHWARTZ, Warden,

Defendant.

No. 08-15696

D.C. No. 04-CV-02474-MCE

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, Jr., District Judge, Presiding

Submitted December 17, 2008**

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

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

Benjamin Adams, a former California state prisoner, appeals pro se from the district court's summary judgment in favor of defendant in his 42 U.S.C. § 1983 action alleging deliberate indifference to his safety. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Frost v. Agnos*, 152 F.3d 1124, 1128 (9th Cir. 1998), and we affirm.

The district court properly granted summary judgment because Adams failed to raise a genuine issue of material fact as to whether defendant acted with deliberate indifference to Adams's safety. *See Farmer v. Brennan*, 511 U.S. 825, 835, 837 (1994) (explaining that "deliberate indifference entails something more than mere negligence," and that a prison official cannot be liable for deliberate indifference to an inmate's safety unless the official knows of and disregards an excessive risk to the inmate's safety).

AFFIRMED.