

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUN 29 2009

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

JAMES L. TRUJILLO,

Plaintiff - Appellant,

v.

SHERIFF OF WASHOE COUNTY,
NEVADA; JOHN MEDINA; RICHARD
NELSON; ERIK WALLITNER;
STEPHANIE MOEN; DANIEL MOORE;
JASON LESHER; THOMAS NAGEL;
EDWARD JOHNSTON; AMBER
DAUSE,

Defendants - Appellees.

No. 08-15074

D.C. No. CV-06-00143-JCM

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
James C. Mahan, District Judge, Presiding

Argued and Submitted June 9, 2009
San Francisco, California

Before: TROTT, McKEOWN and IKUTA, Circuit Judges.

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

James L. Trujillo appeals from the district court's decision granting summary judgment to defendants. Trujillo sued prison officials after he was assaulted by another inmate while Trujillo was a pretrial detainee. Trujillo argues that failing to prevent the assault was a violation of his Fourteenth Amendment rights. To prevail, Trujillo must show that there is a genuine issue of material fact as to whether the defendants were deliberately indifferent to a "substantial risk of serious harm." See Farmer v. Brennan, 511 U.S. 825, 834 (1994). Trujillo cannot make that showing.

Trujillo cannot establish that defendants were aware of, much less indifferent to, the risk that he would be assaulted. Trujillo did not know his assailant and there was no history of conflict between them. When the assault occurred, there were several sheriff's deputies in the room who immediately stepped in to break up the fight. Although Trujillo was a protective custody inmate and his assailant was a high risk inmate, allowing brief supervised contact between two shackled inmates and intervening immediately when one unexpectedly attacked the other does not amount to deliberate indifference to a substantial risk of serious harm.

AFFIRMED.