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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MICHAEL WALLACE, Plaintiff - Appellant, v. WILLIAM HAYTHORNE; JEFFREY RIDGE, Defendants - Appellees.	No. 07-17364 D.C. No. CV-06-01697-MCE/GGH MEMORANDUM*

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

Submitted June 16, 2009**

Before: PAEZ, TALLMAN and N.R. SMITH, Circuit Judges.

Michael Wallace, a California state prisoner, appeals *pro se* from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging that prison officials were deliberately indifferent to his safety in violation of the Eighth

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

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

Amendment. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Lopez v. Smith*, 203 F.3d 1122, 1131 (9th Cir. 2000) (en banc), and affirm.

The district court properly granted summary judgment because Wallace cannot show that the prison officials violated the Eighth Amendment by being deliberately indifferent to the risk presented by the missing or broken floor tiles and resulting holes in the kitchen floor. *See Farmer v. Brennan*, 511 U.S. 825, 834–36, 844 (1994).

Wallace's contentions arising from the district court's handling of certain discovery and evidentiary matters are unpersuasive.

AFFIRMED.