

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 16 2009

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

JAMES HINKLE,

Plaintiff - Appellant,

v.

SHARON BLACKETTER; CARL KING;
DONALD MILLS; RICHARD
MCGRAW; MICHAEL BURCHAM;
DAVID LILIENTHAL; LAWRENCE
KING; MICHAEL TESTER; WILLIAM
WORKMAN,

Defendants - Appellees.

No. 08-35418

D.C. No. 3:07-cv-00013-BR

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Anna J. Brown, District Judge, Presiding

Submitted July 9, 2009**
Portland, Oregon

Before: PREGERSON, RYMER, and TASHIMA, Circuit Judges.

* 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).

Plaintiff James Hinkle, a Corrections Officer, appeals the district court's summary judgment ruling in favor of Defendants (Hinkle's supervisors) on his 42 U.S.C. § 1983 claim. We affirm.

“We review a grant of summary judgment *de novo*.” *Gorman v. Wolpoff & Abramson, LLP*, 552 F.3d 1008, 1013 (9th Cir. 2009). 42 U.S.C. § 1983 provides a private right of action for any person who is deprived of his constitutional rights by a state official acting under color of law. As a general rule, however, the Constitution does not require a state official “to protect the life, liberty, and property of its citizens against invasion by private actors.” *DeShaney v. Winnebago County Dep't of Soc. Servs.*, 489 U.S. 189, 195 (1989). Under the “danger-creation” exception, however, a state official can be liable for injury caused by private actors if: (1) the state official “affirmatively place[d] [the plaintiff] in danger,” and (2) the state official “act[ed] with deliberate indifference to a known or obvious danger in subjecting the plaintiff to it.” *Kennedy v. City of Ridgefield*, 439 F.3d 1055, 1062 (9th Cir. 2006) (internal quotation marks omitted). Here, Hinkle did not produce evidence that would allow a rational trier of fact to find that the Defendants affirmatively placed him in danger and acted with deliberate indifference to that danger. *See id.*; *see also Johnson v. City of Seattle*, 474 F.3d 634, 641 (9th Cir. 2006).

Accordingly, we affirm the district court's grant of summary judgment in favor of Defendants.

AFFIRMED.