

JUN 09 2011

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DANIEL CENTENO-CASTELLANOS,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>UNITED STATES OF AMERICA; et al.,</p> <p>Defendants - Appellees.</p>
--

No. 10-15492

D.C. No. 4:09-cv-00573-DCB-
PSOT

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
David C. Bury, District Judge, Presiding

Submitted May 24, 2011**

Before: PREGERSON, THOMAS, and PAEZ, Circuit Judges.

Federal prisoner Daniel Centeno-Castellanos appeals pro se from the district court’s judgment dismissing his action under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), alleging violations of his Eighth Amendment rights. We have jurisdiction under 28 U.S.C. § 1291. We

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

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

review de novo the district court's dismissal pursuant to the screening provisions of 28 U.S.C. § 1915A. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). We affirm.

The district court properly dismissed the action because Centeno-Castellanos failed to allege any facts in his second amended complaint suggesting that any defendant knew of and disregarded an excessive risk to his safety. *See Farmer v. Brennan*, 511 U.S. 825, 835, 837 (1994) (to state a claim for deliberate indifference, "the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference"; negligence is insufficient).

Centeno-Castellanos's remaining contentions, including those concerning appointment of counsel, are unpersuasive.

AFFIRMED.