

OCT 07 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>GARY EWING,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p style="text-align: center;">v.</p> <p>J. RUANO, Correctional Counselor II, individual; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>

No. 10-55508

D.C. No. 2:09-cv-08471-VAP-AN

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Virginia A. Phillips, District Judge, Presiding

Submitted September 27, 2011**

Before: HAWKINS, SILVERMAN, and W. FLETCHER, Circuit Judges.

Gary Ewing, a California state prisoner, appeals pro se from the district court’s judgment dismissing 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 a dismissal under 28 U.S.C. §§ 1915A and 1915(e)(2). *Resnick v.*

* 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).

Hayes, 213 F.3d 443, 447 (9th Cir. 2000); *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order). We reverse and remand.

Ewing's complaint, liberally construed, was sufficient to require that the district court order the complaint to be served. Accordingly, we reverse the judgment and remand with instructions for the district court to order service by the United States Marshal.

Ewing shall bear his own costs on appeal.

Ewing's pending motion to extend time to file his opening brief is granted.

We have considered the opening brief filed on September 1, 2010.

REVERSED and REMANDED.