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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>GREGORY S. PHILPOTT,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>R. WILLIAMS, C.C.I.,</p> <p>Defendant - Appellee.</p>

No. 10-16687

D.C. No. 2:09-cv-01773-MCE-KJM

MEMORANDUM*

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

Submitted September 27, 2011**

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

Gregory S. Philpott, 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

* 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 a district court's dismissal under 28 U.S.C. § 1915A for failure to state a claim, *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000), and we affirm.

The district court properly dismissed the action because Philpott did not allege sufficient facts to establish that defendant had reason to suspect that Philpott would be a stabbing victim. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994) (a prison official cannot be found liable for failing to protect one inmate from another unless "the official knows of and disregards an excessive risk to inmate health or safety"); *Nat'l Ass'n for the Advancement of Psychoanalysis v. Cal. Bd. of Psychology*, 228 F.3d 1043, 1049 (9th Cir. 2000) (when determining if the complaint states a claim for relief "we may consider facts contained in documents attached to the complaint").

Philpott's remaining contentions are unpersuasive.

AFFIRMED.