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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>KENNETH LOPEZ,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>SUE HUBBARD; et al.,</p> <p>Defendants - Appellees.</p> |
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No. 10-17364

D.C. No. 2:09-cv-01928-GEB-GGH

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Gregory G. Hollows, Magistrate Judge, Presiding**

Submitted September 27, 2011***

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

California state prisoner Kenneth Lopez appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging that defendants

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

** The parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

*** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). Accordingly, Lopez's request for oral argument is denied.

were deliberately indifferent to his safety by not ordering that he be single-celled. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004). We may affirm on any ground supported by the record, *Enlow v. Salem-Keizer Yellow Cab Co.*, 389 F.3d 802, 811 (9th Cir. 2004), and we affirm.

The district court properly granted summary judgment because Lopez failed to raise a genuine dispute of material fact as to whether defendants were deliberately indifferent to a substantial risk of serious harm to him when they denied his request for single-cell status. *See Farmer v. Brennan*, 511 U.S. 825, 837, 843-44 (1994) (explaining that a prison official is not liable for failing to protect one inmate from another unless the prisoner shows that he was housed under conditions that posed a substantial risk of serious harm, and that the prison official acted with deliberate indifference to the prisoner's safety).

AFFIRMED.