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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>KENNETH LOPEZ,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>SUE HUBBARD; et al.,</p> <p>Defendants - Appellees.</p>

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.