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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FREDERICK KARL JOST,

Plaintiff - Appellant,

v.

JERRY BROWN, Attorney General; et al.,

Defendants - Appellees.

No. 11-15207

D.C. No. 1:09-cv-00507-GBC

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Gerald B. Cohn, Magistrate Judge, Presiding**

Submitted February 21, 2012***

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

Frederick Karl Jost, a California state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging deliberate

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

** Jost 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).

indifference to his serious medical needs. We have jurisdiction under 28 U.S.C. § 1291. We 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 Jost failed to allege facts showing that defendants acted with deliberate indifference regarding the denial of his request for soft soled shoes. *See Toguchi v. Chung*, 391 F.3d 1051, 1058 (9th Cir. 2004) (a prison official acts with deliberate indifference only if he or she knows of and disregards an excessive risk to the prisoner's health and safety).

Jost's remaining contentions are unpersuasive.

AFFIRMED.