

MAY 22 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALEXIOS ALEXANDER,

Plaintiff - Appellant,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION; et al.,

Defendants - Appellees.

No. 12-17397

D.C. No. 2:12-cv-00445-WBS-
EFB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, District Judge, Presiding

Submitted May 14, 2013**

Before: LEAVY, THOMAS, and MURGUIA, Circuit Judges.

California state prisoner Alexios Alexander appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging constitutional violations concerning his conditions of confinement. We have jurisdiction under

* 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).

28 U.S.C. § 1291. We review de novo the district court’s dismissal for failure to state a claim under 28 U.S.C. § 1915A. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). We affirm.

The district court properly dismissed Alexander’s action because Alexander failed to allege sufficient facts to state a claim for unconstitutional conditions of confinement. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994) (discussing the subjective prong of deliberate indifference); *Daniels-Hall v. Nat’l Educ. Ass’n*, 629 F.3d 992, 998 (9th Cir. 2010) (courts need not accept as true allegations that contradict exhibits attached to a complaint, or allegations that are “merely conclusory, unwarranted deductions of fact, or unreasonable inferences”); *Hearns v. Terhune*, 413 F.3d 1036, 1042 (9th Cir. 2005) (listing the elements of a conditions of confinement claim and explaining that the circumstances, nature, and duration of the deprivation are relevant); *see also Johnson v. Moore*, 948 F.2d 517, 519 (9th Cir. 1991) (per curiam) (holding that claims for injunctive relief “relating to [a prison’s] policies are moot” when the prisoner has been moved and “he has demonstrated no reasonable expectation of returning to [the prison]”).

The district court did not abuse its discretion in denying Alexander’s multiple requests for appointment of counsel because Alexander failed to demonstrate exceptional circumstances. *See Palmer v. Valdez*, 560 F.3d 965, 970

(9th Cir. 2009) (setting forth standard of review and the exceptional circumstances requirement).

AFFIRMED.