

AUG 05 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICHARD STROUD,

Plaintiff - Appellant,

v.

K. NEVILLE, Corrections Officer, in
individual capacity,

Defendant - Appellee.

No. 12-56929

D.C. No. 2:12-cv-06214-R-MRW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Manuel L. Real, District Judge, Presiding

Submitted July 24, 2013**

Before: ALARCÓN, CLIFTON, and CALLAHAN, Circuit Judges.

Richard Stroud appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging deliberate indifference to his safety in connection with an assault by other inmates. We have jurisdiction under 28 U.S.C.

* 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).

§ 1291. We review de novo a dismissal under 28 U.S.C. § 1915A. *Weilburg v. Shapiro*, 488 F.3d 1202, 1205 (9th Cir. 2007). We affirm.

The district court properly dismissed Stroud’s action because Stroud failed to allege facts showing that defendant disregarded an excessive risk to Stroud’s safety. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994) (claim of deliberate indifference requires showing that “the official [knew] of and disregard[ed] an excessive risk to inmate . . . safety”).

The district court did not abuse its discretion by dismissing without leave to amend because amendment would have been futile. *See Albrecht v. Lund*, 845 F.2d 193, 195 (9th Cir. 1998) (dismissal without leave to amend is not an abuse of discretion if amendment would be futile).

The district court did not abuse its discretion by denying Stroud’s motion for reconsideration because Stroud failed to establish any ground for such relief. *See Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth standard of review and discussing grounds for reconsideration).

AFFIRMED.