

SEP 25 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

GORDON SEES THE GROUND, Jr.,

Plaintiff - Appellant,

v.

C. C. EMERSON; CORRECTIONS
CORPORATION OF AMERICA,

Defendants - Appellees.

No. 13-35733

D.C. No. 4:11-cv-00044-SEH

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Sam E. Haddon, District Judge, Presiding

Submitted September 21, 2015**

Before: REINHARDT, LEAVY, and BERZON, Circuit Judges.

Gordon Sees the Ground, Jr., a Montana state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging deliberate indifference to his safety. We have jurisdiction under 28 U.S.C. § 1291.

* 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).

We review de novo, *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004), and we affirm.

The district court properly granted summary judgment for Emerson because plaintiff failed to raise a genuine dispute of material fact as to whether Emerson was deliberately indifferent to his safety. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994) (“[A] prison official cannot be found liable under the Eighth Amendment . . . unless the official knows of and disregards an excessive risk to inmate health or safety; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference.”).

The district court properly granted summary judgment for Corrections Corporation of America because plaintiff did not establish a constitutional violation by Emerson. *See City of Los Angeles v. Heller*, 475 U.S. 796, 799 (1986) (per curiam).

Plaintiff’s Motion to Amend Affidavit and Relief, filed on November 3, 2014, and his Motion for Extension of Time, filed on November 21, 2014, are denied. Plaintiff’s request in his reply brief to reject the answering brief is also denied because the answering brief was timely filed.

AFFIRMED.