

MAR 23 2016

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CHELDON DEWAYNE WAGGONER,
AKA Cheldon Waggoner, AKA Cheldon
D. Waggoner,

Plaintiff - Appellant,

v.

MARLENE COFFEY, Protective Custody
Administrator at Central Office,

Defendant - Appellee.

No. 15-16149

D.C. No. 2:14-cv-02040-NVW-
MEA

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Neil V. Wake, District Judge, Presiding

Submitted March 15, 2016**

Before: GOODWIN, LEAVY, and CHRISTEN, Circuit Judges.

Arizona state prisoner Cheldon Dewayne Waggoner appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging that

* 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).

defendant violated his Eighth Amendment rights by denying his requests for protective custody. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Hamilton v. Brown*, 630 F.3d 889, 892 (9th Cir. 2011) (dismissal under 28 U.S.C. § 1915A); *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order) (dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii)). We affirm.

The district court properly dismissed Waggoner’s action because Waggoner failed to allege facts sufficient to show that defendant knew of Waggoner’s alleged fear of an assault by other inmates. *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 . . . safety[.]”); *see also Hebbe v. Pliler*, 627 F.3d 338, 341-42 (9th Cir. 2010) (although pro se pleadings are to be liberally construed, a plaintiff must present factual allegations sufficient to state a plausible claim for relief).

AFFIRMED.