NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EDWARD THAVES,
 	
     Plaintiff - Appellant,
 	
v.
 	
MOOREHEAD; et al.,
 	
     Defendants - Appellees.
	No. 14-16745
	
	D.C. No. 1:12-cv-01896-LJO-DLB
	
	MEMORANDUM[*]

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O'Neill, District Judge, Presiding

Submitted April 13, 2016[**]

Before: FARRIS, TALLMAN, and BYBEE, Circuit Judges.

Edward Thaves appeals pro se from the district court's judgment dismissing

his action under *Bivens v. Six Unknown Named Agents of Federal Bureau of*

Narcotics, 403 U.S. 388 (1971), alleging deliberate indifference to his serious

medical needs arising out of events that occurred while he was in federal custody.

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  [*] 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 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)). We affirm.

The district court properly dismissed Thaves's action because Thaves failed to allege facts sufficient to show that any defendant was deliberately indifferent in treating his eye condition. *See Toguchi v. Chung*, 391 F.3d 1051, 1057-58 (9th Cir. 2004) (a prison official acts with deliberate indifference only if he or she knows of and disregards an excessive risk to a prisoner's health; negligence in treating a medical condition, without more, is insufficient); *see also Van Strum v. Lawn*, 940 F.2d 406, 409 (9th Cir. 1991) (*Bivens* actions are identical to actions under 42 U.S.C. § 1983 "save for the replacement of a state actor under § 1983 by a federal actor under *Bivens*").

AFFIRMED.