

APR 19 2016

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN D. LAMBERTSON,

Plaintiff - Appellant,

v.

G. D. LEWIS; et al.,

Defendants - Appellees.

No. 14-16879

D.C. No. 3:12-cv-05122-JD

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
James Donato, District Judge, Presiding

Submitted April 13, 2016**

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

John D. Lambertson, a California state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging deliberate indifference to his safety. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under 28 U.S.C. § 1915A. *Wilhelm v. Rotman*, 680

* 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).

F.3d 1113, 1118 (9th Cir. 2012). We reverse and remand.

Lambertson alleged that Doe correctional officers were aware of the threat posed by general population inmates yet failed to take reasonable measures to protect Lambertson from an assault while he was being escorted back from the law library. *See Cortez v. Skol*, 776 F.3d 1046, 1050 (9th Cir. 2015) (setting forth elements of a claim against prison officials for failure-to-protect inmates from violence by other inmates). These allegations, liberally construed, were “sufficient to warrant . . . an answer.” *Wilhelm*, 680 F.3d at 1116. Accordingly, we reverse the district court’s judgment as to the failure-to-protect claim against the Doe defendants, and remand for further proceedings.

We reject as unsupported by the record Lambertson’s contention that he was denied access to the courts.

Because Lambertson did not reallege his claims against defendant Lewis in the operative complaint, we do not consider Lambertson’s claims against Lewis.

Lambertson’s requests for a subpoena to compel all medical and custody records, and for the appointment of counsel, are denied.

REVERSED and REMANDED.