

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 26 2018

FOR THE NINTH CIRCUIT

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

ANTWOINE MARQUISE BEALER,

No. 17-16173

Plaintiff-Appellant,

D.C. No. 1:16-cv-00672-DAD-SAB

v.

MEMORANDUM*

WILSON, Lieutenant of Administrative
Segregation Unit at Kern Valley State
Prison,

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of California
Dale A. Drozd, District Judge, Presiding

Submitted March 13, 2018**

Before: LEAVY, M. SMITH, and CHRISTEN, Circuit Judges.

California state prisoner Antwoine Marquise Bealer appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging unconstitutional conditions of confinement. We have jurisdiction under 28 U.S.C.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 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. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000) (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 Bealer's action because Bealer failed to allege facts sufficient to show that defendant Wilson knew of or disregarded an excessive risk to Bealer's health. *See Hallett v. Morgan*, 296 F.3d 732, 744 (9th Cir. 2002) (elements of Eighth Amendment conditions of confinement claim); *see also Farmer v. Brennan*, 511 U.S. 825, 847 (1994) (prison officials liable for denying humane conditions of confinement only if they know of and disregard a substantial risk of serious harm).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

Bealer's request for an extension of time to file the opening brief (Docket Entry No. 10) is denied as unnecessary.

AFFIRMED.