

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 14 2020

FOR THE NINTH CIRCUIT

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

JOHN LEO DAVIS,

No. 19-15788

Plaintiff-Appellant,

D.C. No. 2:17-cv-01335-SMB-
CDB

v.

KERNITZKI, Detention Officer at Maricopa
County Sheriff's Office, et al.,

MEMORANDUM*

Defendants-Appellees,

and

PAUL PENZONE, et al.,

Defendants.

Appeal from the United States District Court
for the District of Arizona

Susan M. Brnovich, District Judge, Presiding

Submitted April 7, 2020**

Before: TASHIMA, BYBEE, and WATFORD, Circuit Judges.

Arizona state pretrial detainee John Leo Davis appeals pro se from the

* 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).

district court's summary judgment in his 42 U.S.C. § 1983 claim alleging violations of his Fourth and Fourteenth Amendment rights. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Gordon v. County of Orange*, 888 F.3d 1118, 1122 (9th Cir. 2018). We affirm.

The district court properly granted summary judgment because Davis failed to raise a genuine dispute of material fact as to whether defendants violated his rights by viewing him using the toilet and showering on four occasions. *See Vazquez v. County of Kern*, 949 F.3d 1153, 1162-63 (9th Cir. 2020) (setting forth standard for pretrial detainee bodily integrity and cruel and unusual punishment claims premised on allegations of sexual abuse by guards of the opposite gender); *Byrd v. Maricopa Cty. Bd. of Supervisors*, 845 F.3d 919, 922-23 (9th Cir. 2017) (setting forth standard for unreasonable search claim premised on guards of the opposite gender viewing pretrial detainees showering and using toilets, and explaining that observation that is infrequent, irregular, or from a distance may not constitute a constitutional violation).

Davis's opposed motion regarding defendants' compliance with service procedures is denied as moot.

AFFIRMED.