

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 29 2021

FOR THE NINTH CIRCUIT

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

JAVIER MURRIETA,

Plaintiff-Appellant,

v.

JANE McDUFFEE, Registered Nurse; et al.,

Defendants-Appellees.

No. 20-16771

D.C. No. 4:19-cv-00423-JAS-PSOT

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
James Alan Soto, District Judge, Presiding

Submitted June 21, 2021**

Before: SILVERMAN, WATFORD, and BENNETT, Circuit Judges.

Arizona state prisoner Javier Murrieta appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging deliberate indifference to his serious medical needs. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's dismissal under 28 U.S.C. § 1915A. *Resnick v.*

* 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).

Hayes, 213 F.3d 443, 447 (9th Cir. 2000). We affirm.

The district court properly dismissed Murrieta's action because Murrieta failed to allege facts sufficient to show that defendants disregarded an excessive risk to Murrieta's abdominal pain and other gastrointestinal issues. *See Toguchi v. Chung*, 391 F.3d 1051, 1056-60 (9th Cir. 2004) (a prison official is deliberately indifferent only if he or she knows of and disregards an excessive risk to inmate health; medical malpractice, negligence, or a difference of opinion concerning the course of treatment does not amount to deliberate indifference).

AFFIRMED.