

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 25 2021

FOR THE NINTH CIRCUIT

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

TREMANE DARNELL CARTHEN,

No. 21-15063

Plaintiff-Appellant,

D.C. No. 1:19-cv-00227-DAD-EPG

v.

MEMORANDUM*

P. SCOTT; et al.,

Defendants-Appellees.

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

Submitted August 17, 2021**

Before: SILVERMAN, CHRISTEN, and LEE, Circuit Judges.

Federal prisoner Tremane Darnell Carthen appeals pro se from the district court's judgment dismissing his action brought under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), alleging violations of his constitutional rights. 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 a dismissal under 28 U.S.C. § 1915A. *Hamilton v. Brown*, 630 F.3d 889, 892 (9th Cir. 2011). We vacate and remand.

On appeal, Carthen submitted objections to the magistrate judge's finding and recommendations and a proposed amended complaint. Carthen claims that these documents were not filed in the district court due to his prison's failure to mail the documents. Because Carthen's proposed amended complaint includes allegations that may cure the deficiencies noted by the findings and recommendations, we vacate the judgment and remand for the district court to consider whether Carthen should be allowed to file an amended complaint.

On remand, the district court should address whether a *Bivens* remedy exists for the various claims Carthen asserts. *See Ziglar v. Abbasi*, 137 S. Ct. 1843 (2017).

Carthen's motion to file an amended complaint with this court (Docket Entry No. 5) and motion for appointment of counsel (Docket Entry Nos. 8 and 9) are denied.

VACATED and REMANDED.