

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 3 2023

FOR THE NINTH CIRCUIT

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

RODOLFO MARTINEZ,

No. 22-16458

Plaintiff-Appellant,

D.C. No. 1:21-cv-01319-ADA-BAM

v.

STUART SHERMAN, Warden,

MEMORANDUM*

Defendant-Appellee.

Appeal from the United States District Court
for the Eastern District of California
Ana de Alba, District Judge, Presiding

Submitted June 26, 2023**

Before: CANBY, S.R. THOMAS, and CHRISTEN, Circuit Judges.

California state prisoner Rodolfo Martinez appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging an Eighth Amendment conditions-of-confinement claim. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's dismissal 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).

§ 1915A. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). We affirm.

The district court properly dismissed Martinez's action because Martinez failed to allege facts sufficient to establish deliberate indifference or supervisory liability. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994) (requirements for establishing deliberate indifference); *Starr v. Baca*, 652 F.3d 1202, 1207 (9th Cir. 2011) (requirements for establishing supervisory liability).

Martinez's motion for appointment of counsel (Docket Entry No. 8) is denied.

AFFIRMED.