

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 21 2023

FOR THE NINTH CIRCUIT

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

SHERMAN M. BELL,

No. 22-16119

Plaintiff-Appellant,

D.C. No. 1:21-cv-00998-JLT-EPG

v.

MEMORANDUM*

GODWIN UGWUEZE; CHINYERE
NYENKE; CLARENCE CRYER;
MELISSA FRITZ; LAUARA MERRITT;
MARK MCCOY; LILIANNA LEPE;
STUART TAMALE; KAYLA ESPINOSA;
KAYLEE WICKERT; AGNES BASA;
JANUARY RACCA; LOVINAH
ABRAHAM,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of California
Jennifer L. Thurston, District Judge, Presiding

Submitted August 15, 2023**

Before: TASHIMA, S.R. THOMAS, and FORREST, Circuit Judges.

* 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).

California state prisoner Sherman M. Bell 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. *Mangiaracina v. Penzone*, 849 F.3d 1191, 1195 (9th Cir. 2017) (dismissal under 28 U.S.C. § 1915A); *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012) (dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii)). We affirm.

The district court properly dismissed Bell's action because Bell failed to allege facts sufficient to show that defendants demonstrated deliberate indifference to his serious medical needs. *See Hebbe v. Pliler*, 627 F.3d 338, 341-42 (9th Cir. 2010) (although pro se pleadings are liberally construed, plaintiff must allege sufficient facts to state a plausible claim); *Toguchi v. Chung*, 391 F.3d 1051, 1057, 1060 (9th Cir. 2004) (holding deliberate indifference "is a high legal standard" requiring a defendant be aware of and disregard an excessive risk to an inmate's health); *Jones v. Williams*, 297 F.3d 930, 934 (9th Cir. 2002) ("[T]here is no respondeat superior liability under section 1983.").

Bell's reliance on *Medical Development International v. California Department of Corrections & Rehabilitation*, 585 F.3d 1211 (9th Cir. 2009), is unavailing as it is not relevant to his claims.

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

AFFIRMED.