

NOT FOR PUBLICATION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

RICARDO JAMES JEFFERSON, Jr.,

No. 22-16966

Plaintiff-Appellant,

D.C. No. 4:22-cv-00362-RM-PSOT

v.

MEMORANDUM*

R. AGUILAR, CEPT Instructor at ASPC
Tucson Whetstone Unit; JONES, Unknown;
named as CO IV Education Department at
ASPC Tucson Whetstone Unit; PLEAS,
Unknown; named as Mrs. Pleas Supervisor
Education at ASPC Tucson Whetstone Unit;
DAVID SHINN, Director, Director
Department of Corrections at ASPC Tucson
Whetstone Unit,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Arizona
Rosemary Márquez, 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).

Arizona state prisoner Ricardo James Jefferson, Jr., appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging constitutional claims arising from his requests for educational records. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under 28 U.S.C. § 1915A. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). We affirm.

The district court properly dismissed Jefferson's action because Jefferson failed to allege facts sufficient to show that defendants violated his due process rights by failing to obtain his high school transcript on his behalf. *See Hebbe v. Pliler*, 627 F.3d 338, 341-42 (9th Cir. 2010) (explaining that although pro se pleadings are to be liberally construed, a plaintiff must present factual allegations sufficient to state a plausible claim for relief); *Rizzo v. Dawson*, 778 F.2d 527, 531 (9th Cir. 1985) (holding that a prisoner's due process claim based on denial of a vocational course failed because "there is no constitutional right to rehabilitation"). To the extent that Jefferson intended to allege claims under the Eighth Amendment, dismissal was proper because Jefferson did not allege facts sufficient to show that he was subjected to cruel and unusual punishment. *See Baumann v. Ariz. Dep't of Corr.*, 754 F.2d 841, 846 (9th Cir. 1985) (explaining that a "[g]eneral limitation of jobs and educational opportunities is not considered punishment" and thus does not violate the Eighth Amendment).

We do not consider arguments and allegations raised for the first time on

appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

Jefferson's motion to proceed in forma pauperis on appeal (Docket Entry No. 7) is denied as unnecessary. Jefferson's motion for appointment of counsel (Docket Entry No. 8) is denied.

AFFIRMED.