

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 23 2026

FOR THE NINTH CIRCUIT

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

BENJAMIN ROBERT GALLEGOS,

Plaintiff - Appellant,

v.

GAVIN NEWSOM, Governor of  
California; JEFF McCOMBER;  
CALIFORNIA DEPARTMENT OF  
CORRECTIONS AND  
REHABILITATION,

Defendants - Appellees.

No. 25-6386

D.C. No. 2:24-cv-01004-DC-SCR

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Dena M. Coggins, District Judge, Presiding

Submitted March 16, 2026\*\*

Before: SILVERMAN, NGUYEN, and HURWITZ, Circuit Judges.

California state prisoner Benjamin Robert Gallegos appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging

---

\* 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).

constitutional claims concerning prison safety. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii). *Watison v. Carter*, 668 F.3d 1108, 1112 (9th Cir. 2012). We affirm.

The district court properly dismissed Gallegos's action because Gallegos failed to allege facts sufficient to show any defendant was deliberately indifferent to a substantial risk of serious harm to Gallegos. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994) (holding that, to establish Eighth Amendment liability, a plaintiff must show that a defendant knew of and disregarded an excessive risk to inmate health or safety).

Gallegos's motion (Docket Entry No. 6) for appointment of counsel and motion (Docket Entry No. 8) for injunctive relief are denied.

**AFFIRMED.**