

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 6 2026

FOR THE NINTH CIRCUIT

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

GERALD VAUGHN GWEN,  
Plaintiff - Appellant,

v.

LEON CATTOLICO; BECKY PAYNE,  
Defendants - Appellees.

No. 25-1905

D.C. No. 3:24-cv-08023-JAT--JFM

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
James A. Teilborg, District Judge, Presiding

Submitted April 22, 2026\*\*

Before: LEE, DESAI, and JOHNSTONE, Circuit Judges.

Arizona state prisoner Gerald Vaughn Gwen 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 a dismissal under 28 U.S.C. § 1915A. *Wilhelm v.*

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\* 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).*

*Rotman*, 680 F.3d 1113, 1118 (9th Cir. 2012). We affirm.

The district court properly dismissed Gwen's action because Gwen failed to allege facts sufficient to show that defendants were deliberately indifferent to his serious medical needs in connection with COVID-19 and a cervical spine condition. *See Toguchi v. Chung*, 391 F.3d 1051, 1057-58 (9th Cir. 2004) (explaining that officials act with deliberate indifference only if they know of and disregard an excessive risk to the inmate's health, and that negligence or a difference of medical opinion is insufficient to establish deliberate indifference).

Contrary to Gwen's contentions, the district court did not err in denying Gwen's motion for reconsideration of its order dismissing the original complaint.

We reject as unsupported by the record Gwen's contentions that the district court was biased against him and violated his constitutional rights.

All pending requests are denied.

**AFFIRMED.**