

AUG 27 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DAMEON HAM,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>KEN CLARK, Warden; et al.,</p> <p>Defendants - Appellees.</p>

No. 09-16820

D.C. No. 1:08-cv-01982-LJO-SMS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O’Neill, District Judge, Presiding

Submitted August 10, 2010**

Before: O’SCANNLAIN, HAWKINS, and IKUTA, Circuit Judges.

Dameon Ham, a California state prisoner, appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action alleging violations of his Eighth Amendment rights. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under 28 U.S.C. § 1915A for failure to state a claim.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Resnick v. Hayes, 213 F.3d 443, 447 (9th Cir. 2000). We may affirm on any ground supported by the record, *Thompson v. Paul*, 547 F.3d 1055, 1058-59 (9th Cir. 2008), and we affirm.

The district court properly dismissed the claim against Warden Clark because Ham failed to allege facts indicating Clark's personal involvement in the treatment of Ham's sinus, hypertension, and pain medication problems. *See Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989).

The claims against the remaining defendants were properly dismissed because Ham failed to allege facts showing that these defendants acted with deliberate indifference to his medical problems. *See Toguchi v. Chung*, 391 F.3d 1051, 1057 (9th Cir. 2004) (explaining that a prison official acts with deliberate indifference only if he or she knows of and disregards a substantial risk of serious harm to an inmate).

We do not consider the retaliation claim raised on appeal because it was not adequately raised in the district court. *See Baldwin v. Trailer Inns, Inc.*, 266 F.3d 1104, 1111 n.2 (9th Cir. 2001).

Ham's remaining contentions are unpersuasive.

AFFIRMED.