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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DUANE DIXON,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p style="text-align: center;">v.</p> <p>DEPARTMENT OF CORRECTIONS AND REHABILITATION; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>

No. 13-16852

D.C. No. 1:10-cv-01225-LJO-DLB

MEMORANDUM*

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

Submitted June 12, 2014**

Before: McKEOWN, WARDLAW, and M. SMITH, Circuit Judges.

California state prisoner Duane Dixon appeals pro se from the district court’s judgment in 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

* 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).

review do novo. *Hamilton v. Brown*, 630 F.3d 889, 892 (9th Cir. 2011) (dismissal under 28 U.S.C. § 1915A); *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order) (dismissal under 28 U.S.C. § 1915(e)(2)). We affirm.

The district court properly dismissed Dixon’s action because Dixon failed to allege facts sufficient to show that defendants were deliberately indifferent to his head injury. *See Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir. 2006) (to demonstrate deliberate indifference, the prisoner must show “a purposeful act or failure to respond to a prisoner’s pain or possible medical need” and “harm caused by the indifference”); *Toguchi v. Chung*, 391 F.3d 1051, 1060 (9th Cir. 2004) (“[M]edical malpractice or negligence is insufficient to establish a constitutional deprivation under the Eighth Amendment.”).

AFFIRMED.