

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 30 2017

FOR THE NINTH CIRCUIT

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

VANCE EDWARD JOHNSON,

Plaintiff-Appellant,

v.

J. FORTUNE,

Defendant-Appellee.

No. 16-15965

D.C. No. 1:15-cv-01613-LJO-MJS

MEMORANDUM*

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

Submitted January 18, 2017**

Before: TROTT, TASHIMA, and CALLAHAN, Circuit Judges.

Vance Edward Johnson, a California state prisoner, 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.

* 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).

§ 1291. We review de novo a district court's dismissal under 28 U.S.C. § 1915A, *Wilhelm v. Rotman*, 680 F.3d 1113, 1118 (2012), and we affirm.

The district court properly dismissed Johnson's action because Johnson failed to allege facts sufficient to show that defendant was deliberately indifferent to his chronic pain. *See Toguchi v. Chung*, 391 F.3d 1051, 1057-60 (9th Cir. 2004) (deliberate indifference is a high legal standard; medical malpractice, negligence, or a difference of opinion concerning the course of treatment does not amount to deliberate indifference).

We reject as without merit Johnson's contention that the district court improperly failed to consider his objections to the findings and recommendations.

AFFIRMED.