

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 26 2019

FOR THE NINTH CIRCUIT

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

PETER KENNETH ROSS,

Plaintiff-Appellant,

v.

CHARLES L. RYAN, Director of ADOC; et
al.,

Defendants-Appellees.

No. 19-16572

D.C. No. 2:18-cv-03503-SPL-MHB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Steven Paul Logan, District Judge, Presiding

Submitted November 18, 2019**

Before: CANBY, TASHIMA, and CHRISTEN, Circuit Judges.

California state prisoner Peter Kenneth Ross 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. *Resnick v.*

* 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).

Hayes, 213 F.3d 443, 447 (9th Cir. 2000). We affirm.

The district court properly dismissed Ross's action because Ross failed to allege facts sufficient to show that defendants were deliberately indifferent in treating Ross's insomnia in 2006 and 2007. *See Toguchi v. Chung*, 391 F.3d 1051, 1056-1060 (9th Cir. 2004) (a prison official is deliberately indifferent only if he or she knows of and disregards an excessive risk to inmate health; medical malpractice, negligence, or a difference of opinion concerning the course of treatment does not amount to deliberate indifference).

AFFIRMED.