

United States Court of Appeals
For the Eighth Circuit

No. 18-3333

Deverick Scott

Plaintiff - Appellant

v.

James Gibson, Warden, Varner Supermax, ADC; Shipman, Assistant Warden,
Varner Supermax, ADC; Carroll, Major, Varner Supermax, ADC;
Simpson-Williams, Sergeant, Varner Supermax, ADC; Mothershed, CO II, Varner
Supermax, ADC

Defendants - Appellees

Appeal from United States District Court
for the Eastern District of Arkansas - Pine Bluff

Submitted: August 6, 2019

Filed: August 9, 2019

[Unpublished]

Before LOKEN, GRUENDER, and STRAS, Circuit Judges.

PER CURIAM.

In this 42 U.S.C. § 1983 action, Arkansas inmate Deverick Scott appeals after the district court¹ dismissed his complaint, in which he sought to assert a failure-to-protect claim. Upon careful *de novo* review, we conclude that Scott’s complaint was properly dismissed. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (explaining that complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face); *Patterson v. Kelley*, 902 F.3d 845, 851 (8th Cir. 2018) (holding that, to prevail on a failure-to-protect claim, an inmate must show that there was substantial risk of harm to inmate, and that a prison official was deliberately indifferent to that risk); *Gardener v. Howard*, 109 F.3d 427, 430 (8th Cir. 1997) (noting that there is no § 1983 liability based on a prison official’s violation of prison policy). In addition, we lack jurisdiction to review the magistrate judge’s denial of Scott’s motion to “correct” his complaint. *See Daley v. Marriott Int’l, Inc.*, 415 F.3d 889, 893 n.9 (8th Cir. 2005) (concluding that, when the parties do not consent to final disposition by a magistrate judge, this court lacks jurisdiction to consider a direct appeal of a magistrate judge’s order on a nondispositive pretrial matter; explaining that a litigant may not bypass the district court and appeal such an order directly to the court of appeals). Accordingly, we affirm. *See* 8th Cir. R. 47B.

¹The Honorable James M. Moody Jr., United States District Judge for the Eastern District of Arkansas, adopting the report and recommendations of the Honorable Beth M. Deere, United States Magistrate Judge for the Eastern District of Arkansas.