

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 21 2017

FOR THE NINTH CIRCUIT

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

VINCENT PAUL MELENDREZ,

No. 17-35416

Plaintiff-Appellant,

D.C. No. 2:15-cv-00917-RAJ

v.

MEMORANDUM*

MICHAEL COMPSTON; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Washington
Richard A. Jones, District Judge, Presiding

Submitted December 18, 2017**

Before: WALLACE, SILVERMAN, and BYBEE, Circuit Judges.

Washington state prisoner Vincent Paul Melendrez appeals pro se from the district court's summary judgment in his 42 U.C.S. § 1983 action alleging claims arising from an assault by another inmate during Melendrez's pretrial detention.

We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *FTC 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).

Stefanchik, 559 F.3d 924, 927 (9th Cir. 2009). We affirm.

The district court properly granted summary judgment because Melendrez failed to raise a genuine dispute of material fact as to whether defendants placed Melendrez at a substantial risk of serious harm. *See Castro v. County of Los Angeles*, 833 F.3d 1060, 1067-71 (9th Cir. 2016) (en banc) (elements of a failure-to-protect claim under the Fourteenth Amendment).

The district court did not abuse its discretion in dismissing the action for lack of jurisdiction against defendant John Caster because Melendrez failed to show good cause for the failure to serve Caster after two attempts by the U.S. Marshals Service. *See Puett v. Blandford*, 912 F.2d 270, 275 (9th Cir. 1990) (setting forth standard of review and explaining that a prisoner “proceeding in forma pauperis is entitled to rely on the U.S. Marshal for service” as long as he or she “provide[s] the necessary information to help effectuate service”).

We reject as without merit Melendrez’s contention that his due process rights were violated by the district court’s consideration of defendants’ motion for summary judgment.

AFFIRMED.