

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 19 2021

FOR THE NINTH CIRCUIT

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

JAMES C. WARREN,

Plaintiff-Appellant,

v.

STEWART ANDREWS, M.D., in his
individual and official capacities; et al.,

Defendants-Appellees.

No. 18-36001

D.C. No. 2:17-cv-01934-RAJ

MEMORANDUM*

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

Submitted March 16, 2021**

Before: GRABER, R. NELSON, and HUNSAKER, Circuit Judges.

Former Washington state prisoner James C. Warren 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. *Belanus 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).

Clark, 796 F.3d 1021, 1024 (9th Cir. 2015). We affirm.

The district court properly dismissed Warren’s action because the complaint was filed more than three years after the accrual of the claims and the operative pleading did not allege facts sufficient to support equitable tolling. *See Wallace v. Kato*, 549 U.S. 384, 387, 394 (2007) (federal courts in § 1983 actions apply the state statute of limitations from personal injury actions and borrow applicable tolling provisions from state law); *Bagley v. CMC Real Estate Corp.*, 923 F.2d 758, 760 (9th Cir. 1991) (statute of limitations in Washington is three years); *In re Bonds*, 196 P.3d 672, 676 (Wa. 2008) (equitable tolling should be used “sparingly” and is only allowed when justice requires and when the predicates of bad faith, deception, or false assurances by the defendant and the exercise of diligence by the plaintiff are met).

AFFIRMED.