

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 24 2021

FOR THE NINTH CIRCUIT

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

DANIEL L. BREESE,

Plaintiff-Appellant,

v.

CORRECTIONAL HEALTH, Medical  
Provider Contracted; et al.,

Defendants,

and

UNKNOWN PARTY, Medical Staff Nurse;  
et al.,

Defendants-Appellees.

No. 20-16020

D.C. No. 2:19-cv-01026-MTL-  
ESW

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
Michael T. Liburdi, District Judge, Presiding

Submitted August 17, 2021\*\*

Before: SILVERMAN, CHRISTEN, and LEE, Circuit Judges.

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\* 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).

Arizona state prisoner Daniel L. Breese appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging inadequate medical care while he was a pretrial detainee. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's dismissal under 28 U.S.C. § 1915A. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). We reverse and remand.

The district court dismissed Breese's claims for deliberate indifference regarding defendants' treatment of Breese's back condition because Breese failed to state a plausible claim. However, Breese alleged that he informed Doe medical staffers about pain in his back where he had recently had surgery, and provided the sheriffs with instructions for post-operative back care that the jail medical staff failed to follow. Liberally construed, these allegations "are sufficient to warrant ordering [defendants] to file an answer." *Wilhelm v. Rotman*, 680 F.3d 1113, 1116 (9th Cir. 2012); *see also Gordon v. County of Orange*, 888 F.3d 1118, 1124-25 (9th Cir. 2018) (Fourteenth Amendment claim for inadequate medical care involves objective deliberate indifference). We therefore reverse the judgment and remand for further proceedings.

**REVERSED and REMANDED.**