

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 18 2023

FOR THE NINTH CIRCUIT

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

KENNETH ADRIAN FULLER,

No. 23-15146

Plaintiff-Appellant,

D.C. No. 4:22-cv-03802-YGR

v.

MEMORANDUM\*

KAREN THOMPSON; CORREA, Dr.;  
KATHLEEN POZZY; LYNN STARK-  
SLATER; DOTY, Dr.; CHRISTINE  
BRADY; ROBERT LA FORGE, Judge;  
KARLENE NAVERRO, Judge,

Defendants-Appellees.

Appeal from the United States District Court  
for the Northern District of California  
Yvonne Gonzalez Rogers, District Judge, Presiding

Submitted October 10, 2023\*\*

Before: S.R. THOMAS, McKEOWN, and HURWITZ, Circuit Judges.

Kenneth Adrian Fuller appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action arising out of his state criminal

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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).

proceedings. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under 28 U.S.C. § 1915A. *Wilhelm v. Rotman*, 680 F.3d 1113, 1118 (9th Cir. 2012). We affirm.

The district court properly dismissed Fuller’s action because Fuller failed to allege facts sufficient to show a conspiracy between the public defenders, court-appointed psychologists, and state court judges. *See Crowe v. County of San Diego*, 608 F.3d 406, 440 (9th Cir. 2010) (setting forth elements of a § 1983 conspiracy claim); *Simmons v. Sacramento County Super. Ct.*, 318 F.3d 1156, 1161 (9th Cir. 2003) (explaining that “conclusory allegations” are insufficient to state a conspiracy claim under § 1983); *see also Polk County v. Dodson*, 454 U.S. 312, 325 (1981) (“[A] public defender does not act under color of state law when performing a lawyer’s traditional functions as counsel to a defendant in a criminal proceeding.”).

Fuller’s request for judicial notice, set forth in the opening brief, is denied as unnecessary.

**AFFIRMED.**