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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TOVIA LAFAELE,

Plaintiff - Appellant,

v.

P. LARGENT,

Defendant - Appellee.

No. 04-16818

D.C. No. CV-02-02469-WBS

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
William B. Shubb, Chief Judge, Presiding

Submitted November 13, 2007\*\*

Before: TROTT, W. FLETCHER, and CALLAHAN, Circuit Judges.

California state prisoner Tovia LaFaele appeals pro se from the district court's judgment dismissing for failure to state a claim his 42 U.S.C. § 1983 action alleging defendant caused unsanitary housing conditions. We have jurisdiction

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

under 28 U.S.C. § 1291. We review de novo a district court's dismissal of a prisoner's complaint pursuant to 28 U.S.C. § 1915A. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). We affirm.

The district properly concluded LaFaele failed to state a claim under the Eighth Amendment, because LaFaele failed to allege that Largent's administrative decisions were made in disregard to an excessive risk to inmate health or safety. *See Farmer v. Brennan*, 511 U.S. 825, 847 (1994) ("a prison official may be held liable under the Eighth Amendment for denying humane conditions of confinement only if he knows that inmates face a substantial risk of serious harm and disregards that risk by failing to take reasonable measures to abate it").

LaFaele's remaining contentions lack merit.

**AFFIRMED.**