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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MICHAEL WALTERS,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>P DOAN; et al.,</p> <p>Defendants - Appellees.</p>

No. 07-15002

D.C. No. CV-04-05248-AWI

MEMORANDUM *

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, District Judge, Presiding

Submitted December 17, 2008 **

Before: WALLACE, TROTT and RYMER, Circuit Judges.

Michael Walters, a California state prisoner, appeals pro se from the district court's summary judgment for defendants in his 42 U.S.C. § 1983 action alleging that prison officials acted with deliberate indifference to his safety in violation of

* 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).

the Eighth Amendment. We have jurisdiction pursuant to 28 U.S.C. § 1291. Our review is de novo. *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004). We affirm.

The district court properly granted summary judgment on Walters’s failure-to-protect claim because Walters did not raise a triable issue of material fact as to whether defendants were deliberately indifferent to his safety by transporting him, a gang dropout, in the same vehicle as an inmate from the general population. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994) (holding that “a prison official cannot be found liable [for deliberate indifference] unless the official knows of and disregards an excessive risk to inmate health or safety”).

Walters’s remaining contentions are unpersuasive.

AFFIRMED.