

APR 29 2009

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SIDNEY ELGERE LAMBUS,

Plaintiff - Appellant,

v.

CARSON MCWILLIAMS, Warden; et al.,

Defendants - Appellees.

No. 07-15636

D.C. No. CV-07-00073-
NVW/HCE

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Neil V. Wake, District Judge, Presiding

Submitted April 13, 2009**

Before: GRABER, GOULD, and BEA, Circuit Judges.

Sidney Elgere Lambus, an Arizona state prisoner, appeals pro se from the district court's judgment dismissing for failure to state a claim his 42 U.S.C.

* 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).

§ 1983 action alleging inadequate living conditions in violation of the Eighth and Fourteenth Amendments. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a district court's dismissal under 28 U.S.C. § 1915A. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). We affirm.

The district court properly dismissed the action because Lambus failed to allege sufficient facts to show that defendants had the culpable state of mind necessary to find an Eighth Amendment violation. *See Wilson v. Seiter*, 501 U.S. 294, 299-300 (1991).

Lambus's remaining contentions are unpersuasive.

Lambus's motion for qui tam is denied.

AFFIRMED.