

MAY 26 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WILLIAM KING,

Plaintiff - Appellant,

v.

STEPHEN MAYBERG; et al.,

Defendants - Appellees.

No. 07-56244

D.C. No. CV-04-00893-TJH

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Terry J. Hatter, District Judge, Presiding

Submitted May 12, 2009**

Before: PREGERSON, CANBY, and BERZON, Circuit Judges.

William King, a former civil detainee at Atascadero State Hospital, appeals pro se from the district court's summary judgment for defendants in 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 that he was denied medical care in violation of the Due Process Clause of the Fourteenth Amendment. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a grant of summary judgment. *Aguilera v. Baca*, 510 F.3d 1161, 1167 (9th Cir. 2007). We affirm.

The district court properly granted summary judgment on King’s claims that defendants denied him care for gastroesophageal reflux disease and rectal bleeding because King failed to demonstrate a triable issue as to whether the treatment he received constituted a “substantial departure from accepted professional judgment.” *Youngberg v. Romeo*, 457 U.S. 307, 323 (1982).

The district court properly granted summary judgment on King’s claim that defendants denied him chemotherapy for bone marrow cancer because, as the district court found, it was not a substantial departure from professional medical judgment to fail to treat a patient for an undiagnosed disease.

The district court properly granted summary judgment on King’s claim that Dr. Shelton denied him insulin to address his high blood glucose level because King offered no medical evidence controverting Dr. Shelton’s statements that insulin was not required. *See Franklin v. Or., State Welfare Div.*, 662 F.2d 1337, 1344 (9th Cir. 1981) (“A difference of opinion between a prisoner-patient and

prison medical authorities regarding treatment does not give rise to a § 1983 claim.”).

AFFIRMED.