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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

VONDELL L. LEWIS, Plaintiff - Appellant, v. M. MACOMBER; et al., Defendants - Appellees.	No. 07-17381 D.C. No. CV-06-05935-MJJ MEMORANDUM[*]

Appeal from the United States District Court
for the Northern District of California
Martin J. Jenkins, District Judge, Presiding

Submitted June 16, 2009[**]

Before: PAEZ, TALLMAN, and N. SMITH, Circuit Judges.

Vondell L. Lewis, 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 violations of the Eighth Amendment and Fourteenth Amendment. We have

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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).

/Research

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

The district court properly granted summary judgment on Lewis's claim of inadequate medical care because Lewis did not introduce evidence that defendants were deliberately indifferent to a serious medical need. *See Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir. 2006) ("[T]he test for deliberate indifference consists of two parts. First, the plaintiff must show a serious medical need . . . . Second, the plaintiff must show the defendant's response to the need was deliberately indifferent.") (internal quotation marks and citations omitted). Indeed, on appeal, Lewis concedes that he had no such need.

We do not consider Lewis's "hearsay" argument because he did not raise it before the district court. *See Cold Mountain v. Garber*, 375 F.3d 884, 891 (9th Cir. 2004) ("In general, we do not consider an issue raised for the first time on appeal.").

Lewis's remaining contentions lack merit.

AFFIRMED.