

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

OCT 27 2009

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

BRUCE RAFFORD,

Plaintiff - Appellant,

v.

SNOHOMISH COUNTY, a municipal
corporation of the State of Washington, et-
al

Defendant - Appellee.

No. 08-35884

D.C. No. 2:07-cv-00947-RSL

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Robert S. Lasnik, Chief District Judge, Presiding

Argued and Submitted October 16, 2009
Seattle, Washington

Before: RAWLINSON and CALLAHAN, Circuit Judges, and BURNS,** District
Judge.

Appellant Bruce Rafford (Rafford) sued Appellee Snohomish County (the
County) for violations of the Americans with Disabilities Act (ADA) and the

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

** The Honorable Larry A. Burns, U.S. District Judge for the Southern
District of California, sitting by designation.

Rehabilitation Act because of the County's alleged failure to reasonably accommodate his hearing impairment during court proceedings involving Rafford's son. Rafford challenges the district court's dismissal of his claims for monetary damages premised on intentional discrimination.

The district court properly dismissed Rafford's claims for monetary damages because Rafford failed to present evidence that the County was deliberately indifferent to his request for a reasonable accommodation. *See Memmer v. Marin County Courts*, 169 F.3d 630, 633 (9th Cir. 1999) (“[A] plaintiff at least must establish deliberate indifference to recover monetary damages under Title II of the ADA.”) (citation omitted); *see also Duvall v. County of Kitsap*, 260 F.3d 1124, 1139 (9th Cir. 2001), *as amended* (“[A] failure to act must be a result of conduct that is more than negligent, and involves an element of deliberateness.”) (citations omitted).

County officials made reasonable attempts to provide an adequate assisted listening device for Rafford's use. In addition, the decision not to provide a “real-time” transcript was made by the presiding judge, whose dismissal was not challenged by Rafford.

AFFIRMED.