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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CHRISTOPHER LEE OUTLEY,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>GLENN N. JAMES, M.D.,</p> <p>Defendant - Appellee.</p>
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No. 08-17126

D.C. No. 2:06-cv-02271-MCE-CMK

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Morrison C. England, Jr., District Judge, Presiding

Submitted February 16, 2010\*\*

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Christopher Lee Outley, a California state prisoner, appeals pro se from the district court’s summary judgment for defendants and from the order denying his

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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 concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

motions for summary judgment and for a preliminary injunction in his 42 U.S.C. §1983 action alleging deliberate indifference to his serious medical needs. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo an order granting summary judgment, *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004), and for abuse of discretion and proper application of legal principles an order denying a preliminary injunction, *Earth Island Inst. v. U.S. Forest Serv.*, 351 F.3d 1291, 1298 (9th Cir. 2003). We affirm.

The district court properly granted summary judgment to defendants because evidence of negligence and of a difference of medical opinion is insufficient to show deliberate indifference. *See McGuckin v. Smith*, 974 F.2d 1050, 1059 (9th Cir. 1992) (explaining that negligence in diagnosing or treating a medical condition, without more, does not violate a prisoner’s Eighth Amendment rights), *rev’d on other grounds, WMX Tech., Inc. v. Miller*, 104 F.3d 1133 (9th Cir. 1997) (en banc); *Sanchez v. Vild*, 891 F.2d 240, 242 (9th Cir. 1989) (holding that a difference of opinion regarding the best course of medical treatment does not amount to deliberate indifference).

“[T]he district court employed the proper preliminary injunction standard and . . . correctly apprehended the underlying legal issues in the case,” and

therefore did not abuse its discretion in denying Outley's motion for a preliminary injunction. *Earth Island Inst.*, 351 F.3d at 1298.

Outley's remaining contentions are unpersuasive.

**AFFIRMED.**