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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>QUINCY WINSTON ADAMS,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>SHELDON BROOKS, DDS; et al.,</p> <p>Defendants - Appellees.</p>

No. 09-55268

D.C. No. 2:07-cv-02215-AHS-SS

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Alicemarie H. Stotler, District Judge, Presiding

Submitted February 16, 2010**

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

Quincy Winston Adams, a California state prisoner, appeals pro se from the district court’s summary judgment in his 42 U.S.C. § 1983 action alleging

* 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).

deliberate indifference to his dental needs in violation of the Eighth Amendment.

We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Sorrels v.*

McKee, 290 F.3d 965, 969 (9th Cir. 2002), and we vacate and remand.

The record does not indicate that the district court provided Adams with any notice under *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998) (en banc). Further, the error was not harmless because it does not appear that Adams had recently received a *Rand* notice in any other litigation, and the record does not disclose that he had a complete understanding of the requirements of Federal Rule of Civil Procedure 56. *See id.* at 961-62.

Each party shall bear its own costs on appeal.

VACATED and REMANDED.