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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DANIEL SARTAIN,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p>v.</p> <p>ROBERT MEYERS; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>
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Nos. 08-55683  
08-56317

D.C. No. 2:05-cv-05067-VAP-JC

MEMORANDUM\*

Appeals from the United States District Court  
for the Central District of California  
Virginia A. Phillips, District Judge, Presiding

Submitted February 16, 2010\*\*

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

In these consolidated appeals, Daniel Sartain, a California state prisoner, appeals pro se from the district court’s summary judgment in his 42 U.S.C. § 1983 action alleging that defendants failed to treat his chronic pain condition properly in

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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 these cases are suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

violation of the Eighth and Fourteenth Amendments. We have jurisdiction under 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 the Eighth Amendment claim because Sartain did not raise a triable issue as to whether defendants' chosen course of treatment "was medically unacceptable under the circumstances, and was chosen in conscious disregard of an excessive risk to [Sartain's] health." *See id.* at 1058 (internal quotation marks and citation omitted).

The district court properly granted summary judgment on the equal protection claim because Sartain did not raise a triable issue as to whether he was intentionally treated differently from similarly situated inmates. *See Thornton v. City of St. Helens*, 425 F.3d 1158, 1166-67 (9th Cir. 2005).

The district court did not abuse its discretion by denying Sartain's motions for appointment of counsel because Sartain failed to demonstrate exceptional circumstances warranting appointment of counsel. *See Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991).

Sartain's remaining contentions are unpersuasive.

Sartain's February 3, 2010, motion for an emergency injunction and restraining order is denied.

**AFFIRMED.**