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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ANTHONY STARKES,

Plaintiff - Appellant,

v.

DR. HAILE; et al.,

Defendants - Appellees.

No. 08-17568

D.C. No. 2:05-cv-02275-JAM-
GGH

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
John A. Mendez, District Judge, Presiding

Submitted April 5, 2010**

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

Anthony Starkes, a California state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging deliberate

* 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).

indifference to his serious medical needs in violation of the Eighth Amendment. 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 Starkes failed to raise a genuine issue of material fact as to whether defendants were deliberately indifferent to his broken ankle. *See id.* at 1057 (explaining that prison officials must know of and disregard a substantial risk of serious harm for their conduct to constitute deliberate indifference, and that negligence does not amount to deliberate indifference).

The district court did not abuse its discretion by declining to exercise supplemental jurisdiction over the state law claims after granting summary judgment on the federal claim. *See* 28 U.S.C. § 1367(c)(3); *Fichman v. Media Ctr.*, 512 F.3d 1157, 1162-63 (9th Cir. 2008) (“Having granted judgment on the federal claims, the district court did not abuse its discretion in declining to exercise supplemental jurisdiction over the state claims.”).

Starkes’s remaining contentions are unpersuasive.

AFFIRMED.