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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>RONALD DAVID ROSSI,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>NEVADA DEPARTMENT OF CORRECTIONS; et al.,</p> <p>Defendants - Appellees.</p>
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No. 08-17065

D.C. No. 2:07-cv-00219-LDG-RJJ

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Lloyd D. George, District Judge, Presiding

Submitted July 19, 2010**

Before: B. FLETCHER, REINHARDT, and WARDLAW, Circuit Judges.

Ronald David Rossi, a Nevada state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging defendants violated the Eighth Amendment by acting with deliberate indifference to his

* 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).

medical needs. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Sanchez v. Vild*, 891 F.2d 240, 241-42 (9th Cir. 1989). We affirm.

Rossi claimed that the defendants were deliberately indifferent because he did not receive surgery to repair his inguinal hernia. The district court properly granted summary judgment on Rossi's claim against the individual defendants because he did not raise a genuine issue of material fact as to whether they disregarded a serious risk to his health. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994) (setting forth deliberate indifference standard).

While this action was pending, Rossi had hernia surgery. As to Rossi's remaining damages claim against the Nevada Department of Corrections, it is barred by the Eleventh Amendment. *See Doe v. Lawrence Livermore Nat'l Lab.*, 131 F.3d 836, 839 (9th Cir. 1997) ("States or governmental entities that are considered arms of the State for Eleventh Amendment purposes are not persons under § 1983") (internal quotation marks omitted); *Taylor v. List*, 880 F.2d 1040 (9th Cir. 1989) (stating that the Nevada Department of Prisons is immune from suit under the Eleventh Amendment).

Rossi's remaining contentions are unpersuasive.

AFFIRMED.