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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANK J. FERNANDEZ,

Plaintiff - Appellant,

v.

C. DAVID, M.D.; et al.,

Defendants - Appellees.

No. 08-15118

D.C. No. Cv-06-00888-CRB

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Charles R. Breyer, District Judge, Presiding

Submitted September 13, 2010\*\*

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Frank J. Fernandez, a California state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging deliberate indifference to his serious medical needs. We have jurisdiction under 28

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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).

U.S.C. § 1291. We review de novo. *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004). We affirm.

The district court properly granted summary judgment for defendants on Fernandez's deliberate indifference claim because he failed to raise a genuine issue of material fact as to whether their treatment of his hemorrhoids and bacterial skin infection disregarded a substantial risk of serious harm. *See Estelle v. Gamble*, 429 U.S. 97, 105-06 (1976) (plaintiff must show that the defendants intentionally disregarded a serious medical need); *Toguchi*, 391 F.3d at 1058 (a difference of medical opinion concerning treatment does not amount to deliberate indifference).

Fernandez's remaining contentions are unpersuasive.

Fernandez's pending motion, filed on August 6, 2010, is denied.

**AFFIRMED.**