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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>KENNETH JEROME PACKNETT,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>S. PATRAKIS; et al.,</p> <p>Defendants - Appellees.</p>
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No. 09-17410

D.C. No. 5:08-cv-02517-JF

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Jeremy Fogel, District Judge, Presiding

Submitted June 15, 2011\*\*

Before: CANBY, O’SCANNLAIN and FISHER, Circuit Judges.

Kenneth Jerome Packnett, a California state prisoner, appeals pro se from the district court’s summary judgment in his 42 U.S.C. § 1983 action alleging violations of his First, Eighth, and Fourteenth Amendment rights. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, and we may affirm on

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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).

any ground supported by the record. *Corales v. Bennett*, 567 F.3d 554, 562 (9th Cir. 2009). We affirm.

The district court properly granted summary judgment on Packnett's retaliation claim, to the extent that he alleged one, because Packnett failed to raise a triable dispute as to whether he was engaged in any constitutionally protected conduct. *See Rhodes v. Robinson*, 408 F.3d 559, 567-68 (9th Cir. 2005) (stating the elements of a retaliation claim).

Summary judgment was proper on Packnett's conditions of confinement claim because Packnett failed to raise a triable dispute as to whether the cell block search was "conducted only for calculated harassment." *Vigliotto v. Terry*, 873 F.2d 1201, 1203 (9th Cir. 1989) (citation and internal quotation marks omitted).

The district court properly granted summary judgment on Packnett's medical treatment claim because Packnett failed to raise a triable dispute as to whether the defendants were deliberately indifferent to his medical needs. *See Toguchi v. Chung*, 391 F.3d 1051, 1057-58 (9th Cir. 2004).

The district court properly granted summary judgment on Packnett's conspiracy claim because Packnett failed to raise a triable dispute as to any constitutional violations. *See Woodrum v. Woodward Cnty.*, 866 F.2d 1121, 1126 (9th Cir. 1989).

The district court did not err in staying discovery pending resolution of defendants' qualified immunity claim. *See Crawford-El v. Britton*, 523 U.S. 574, 598 (1998).

The district court did not abuse its discretion in denying as moot Packnett's motion for appointment of an expert witness. *See United States v. Rodriguez-Lara*, 421 F.3d 932, 939 (9th Cir. 2005) (refusal to appoint expert witness reviewed for abuse of discretion).

Packnett's remaining contentions are unpersuasive.

All pending motions are denied.

**AFFIRMED.**