

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 15 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

BARON JOHN BADILLO,

Plaintiff - Appellant,

v.

SANTA CLARA VALLEY HEALTH &
HOSPITAL SERVICES, ADULT
CUSTODY HEALTH SERVICES; et al.,

Defendants - Appellees.

No. 09-15843

D.C. No. 3:05-CV-03370-WHA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
William H. Alsup, District Judge, Presiding

Submitted July 12, 2011**

Before: SCHROEDER, ALARCÓN, and LEAVY, Circuit Judges.

Baron John Badillo, 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 medical needs. We have jurisdiction under 28 U.S.C.

* 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).

§ 1291. We review de novo, *Barnett v. Centoni*, 31 F.3d 813, 815-16 (9th Cir. 1994) (per curiam), and we affirm.

The district court properly granted summary judgment because Badillo failed to raise a genuine dispute of material fact as to whether Bowman and Ferry were deliberately indifferent to Badillo's shoulder/back injury. *See Toguchi v. Chung*, 391 F.3d 1051, 1057-58 (9th Cir. 2004) (a prison official acts with deliberate indifference only if he or she knows of and disregards an excessive risk to the prisoner's health and safety; negligence and a mere difference in medical opinion are insufficient); *Hallett v. Morgan*, 296 F.3d 732, 746 (9th Cir. 2002) (a prisoner alleging that the delay of medical treatment evinces deliberate indifference must show that the delay led to further injury).

AFFIRMED.