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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANCISCO GONZALEZ,

Plaintiff - Appellant,

v.

D. L. RUNNELS, Secretary, California
Department of Corrections and
Rehabilitation; et al.,

Defendants - Appellees.

No. 10-17379

D.C. No. 3:07-cv-02303-MHP

MEMORANDUM*

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

Submitted September 27, 2011**

Before: SILVERMAN, W. FLETCHER, and MURGUIA, Circuit Judges.

California state prisoner Francisco Gonzalez 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 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. *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004). We affirm.

The district court properly granted summary judgment because Gonzalez failed to raise a genuine dispute of material fact as to whether defendants knew of and disregarded an excessive risk to his health. *See id.* at 1057-58 (a prison official acts with deliberate indifference only if he knows of and disregards an excessive risk to an inmate's health and safety, and a difference of opinion about the best course of medical treatment does not amount to deliberate indifference). The district court also properly entered summary judgment for the nonappearing defendant Clark. *See Columbia Steel Fabricators, Inc. v. Ahlstrom Recovery*, 44 F.3d 800, 802-03 (9th Cir. 1995) (affirming summary judgment for nonappearing defendant where plaintiffs, in response to summary judgment motion filed by appearing defendant, had "a full and fair opportunity to brief and present evidence" as to claims against nonappearing defendant).

We do not consider issues not adequately raised and argued in the opening brief. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999).

Gonzalez's remaining contentions are unpersuasive.

To the extent that Gonzalez seeks to amend the docket to list Rick Marino as an appellee, that request is granted.

All remaining pending motions are denied.

AFFIRMED.