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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>SAMUEL D. MARTIN,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>DAMANJEET CHUGH; et al.,</p> <p>Defendants - Appellees.</p>

No. 10-35728

D.C. No. 2:07-cv-00060-RMP

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Rosanna Malouf Peterson, Chief Judge, Presiding

Submitted October 25, 2011**

Before: TROTT, GOULD, and RAWLINSON, Circuit Judges.

Samuel D. Martin, a Washington 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. § 1291. We review de novo, *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir.

* 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).

2004), and we affirm.

The district court properly granted summary judgment because Martin failed to raise a genuine dispute of material fact as to whether Chugh’s failure to order an x-ray “was medically unacceptable under the circumstances and was chosen in conscious disregard of an excessive risk to [his] health.” *Id.* at 1058 (explaining that a difference of medical opinion is insufficient, as a matter of law, to establish deliberate indifference) (citation and internal quotation marks omitted). Martin also failed to raise a genuine dispute of material fact as to whether Smith’s denial of his grievance amounted to deliberate indifference. *See id.* at 1057 (a prison official acts with deliberate indifference only if he knows of and disregards an excessive risk to the prisoner’s health and safety).

Martin’s remaining contentions are unpersuasive.

AFFIRMED.