

NOV 02 2011

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DENNIS MICHAEL GIECK,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>MARTIN EARLE LEVIN, M.D.; AN MINH NGUYEN, M.D.,</p> <p>Defendants - Appellees.</p>
--

No. 10-55168

D.C. No. 3:05-cv-01974-H-RBB

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Marilyn L. Huff, District Judge, Presiding

Submitted October 25, 2011\*\*

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

Dennis Michael Gieck, 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

---

\* 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), and we affirm.

The district court properly granted summary judgment because Gieck failed to raise a genuine dispute of material fact as to whether defendants were deliberately indifferent in treating his cervical condition and skin infections. *See id.* at 1057-58 (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, and negligence or a difference of medical opinion are insufficient to establish deliberate indifference).

Gieck's remaining contentions are unpersuasive.

We grant Gieck's request, filed August 5, 2010, for the court to refer to the Reply Brief from his previous appeal.

**AFFIRMED.**