

JAN 10 2012

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MELVIN ANDREW JONES,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>STEVE LOPEZ, P T,</p> <p>Defendant - Appellee.</p>
---

No. 10-56325

D.C. No. 2:05-cv-02091-JHN-CW

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Jacqueline H. Nguyen, District Judge, Presiding

Submitted December 19, 2011\*\*

Before: GOODWIN, WALLACE, and McKEOWN, Circuit Judges.

Melvin Andrew Jones, a civilly committed patient at a California state hospital, appeals pro se from the district court’s summary judgment in his 42 U.S.C. § 1983 action alleging excessive force. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Jones v. Blanas*, 393 F.3d 918, 926 (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). We reverse and remand.

The district court granted summary judgment to Lopez on the ground that Jones offered no evidence showing that Lopez intentionally struck him. We disagree. In his verified brief opposing summary judgment, Jones stated that Lopez struck him in the mouth and that Lopez acted deliberately. The district court also failed to view the evidence in the light most favorable to Jones when it speculated that Lopez may have inadvertently struck Jones in the mouth. We therefore reverse and remand for further proceedings.

Jones's remaining contentions, including those concerning discovery and his status as a civilly committed individual, are unpersuasive.

**REVERSED and REMANDED.**