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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DUSHAN STEPHAN NICKOLICH, II,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>RICHARD ROWE,</p> <p>Defendant - Appellee.</p>
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No. 10-17623

D.C. No. 2:06-cv-02508-SMM

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Stephen M. McNamee, District Judge, Presiding

Submitted December 19, 2011**

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

Dushan Stephan Nickolich, II, an Arizona state prisoner, appeals pro se from the district court’s summary judgment in his 42 U.S.C. § 1983 action alleging that Rowe was deliberately indifferent to his serious medical needs. We have

* 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).

jurisdiction under 28 U.S.C. § 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 on Nickolich's Eighth Amendment claim because Nickolich failed to raise a genuine dispute of material fact as to whether Rowe's failure to diagnose diabetes constituted deliberate indifference. *See id.* at 1057-58 (prison officials act with deliberate indifference only if they know of and disregard an excessive risk to an inmate's health and safety; a difference of medical opinion about the best course of medical treatment does not amount to deliberate indifference).

Nickolich's remaining contentions are unpersuasive.

AFFIRMED.