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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOSE J. RODRIGUEZ,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>MICHAEL C. LESAC,</p> <p>Defendant - Appellee.</p>
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No. 11-15316

D.C. No. 2:09-cv-01050-FJM

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Arizona  
Frederick J. Martone, District Judge, Presiding

Submitted February 21, 2012\*\*

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

Jose J. Rodriguez, an Arizona state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging that defendant was deliberately indifferent to his serious medical needs. We have jurisdiction

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\* 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).

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 because Rodriguez failed to raise a genuine dispute of material fact as to whether defendant's treatment of Rodriguez's knee 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).

To the extent that Rodriguez challenges the denial of appointment of counsel, the district court did not abuse its discretion because Rodriguez failed to demonstrate exceptional circumstances. *See Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (setting forth standard of review and "exceptional circumstances" requirement).

Rodriguez's remaining contentions are unpersuasive.

**AFFIRMED.**