

JUL 12 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAIME LEDESMA ZEPEDA,

Plaintiff - Appellant,

v.

M. O'BRIEN, Medical Doctor;  
SECRETARY OF CDCR,

Defendants - Appellees.

No. 11-16768

D.C. No. 1:07-cv-00982-SMM

MEMORANDUM\*

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

Submitted June 26, 2012\*\*

Before: SCHROEDER, HAWKINS, and GOULD, Circuit Judges.

California state prisoner Jamie Ledesma Zepeda appeals pro se from the district court's judgment dismissing his action alleging deliberate indifference to his serious medical needs. We have jurisdiction under 28 U.S.C. § 1291. We

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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).

review de novo the district court's dismissal for failure to state a claim under 28 U.S.C. § 1915A, *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000), and we affirm.

The district court properly dismissed Zepeda's action because his third amended complaint failed to allege facts suggesting that defendants' treatment of Zepeda's stomach ailment constituted deliberate indifference. *See Jackson v. McIntosh*, 90 F.3d 330, 332 (9th Cir. 1996) (“[A] plaintiff's showing of nothing more than a difference of medical opinion as to the need to pursue one course of treatment over another was insufficient, as a matter of law, to establish deliberate indifference.” (internal quotations omitted)).

The district court did not abuse its discretion in denying Zepeda's motion for reconsideration because Zepeda failed to show grounds warranting reconsideration. *See Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993) (setting forth elements for reconsideration and standard of review).

The district court also did not abuse its discretion by refusing to take judicial notice of Zepeda's proposed fourth amended complaint because the court reviewed the complaint and concluded that it would not assist the court in ruling on Zepeda's motion for reconsideration. *See Ritter v. Hughes Aircraft Co.*, 58 F.3d 454, 458 (9th Cir. 1995) (setting forth standard of review).

Zepeda's remaining contentions, including those concerning the "law of the case" doctrine, are unpersuasive.

**AFFIRMED.**