

JUL 13 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CESAR R. RODRIGUEZ,

Plaintiff - Appellant,

v.

CATE, Director; et al.,

Defendants - Appellees.

No. 11-15520

D.C. No. 3:09-cv-01769-MHP

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Marilyn H. Patel, District Judge, Presiding

Submitted June 26, 2012**

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

California state prisoner Cesar R. Rodriguez 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 U.S.C.

* 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).

§ 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 Rodriguez failed to raise a genuine dispute of material fact as to whether defendants consciously disregarded a risk to his health in pursuing a conservative treatment plan for his hernia before ordering an ultrasound and authorizing hernia repair surgery. *See id.* at 1058 (prison officials are deliberately indifferent only if they know of and disregard an excessive risk of serious harm to inmate's health). Rodriguez's disagreement with defendants' medical opinion is not sufficient to constitute deliberate indifference. *See id.* (in a claim involving alternative courses of treatment, inmate must show that the chosen course was medically unacceptable and chosen in conscious disregard of an excessive risk to the prisoner's health).

Rodriguez's remaining contentions, including those regarding the alleged impact of budget cuts on his medical care, are unpersuasive.

Issues not raised in Rodriguez's opening brief are deemed waived. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.