

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 25 2012

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

JOHNNIE LAMBERT,

Plaintiff - Appellant,

v.

DANTE F. VACCA; et al.,

Defendants - Appellees.

No. 11-16855

D.C. No. 3:11-cv-00093-RCJ-
RAM

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Robert Jones, Chief Judge, Presiding

Submitted July 17, 2012**

Before: SCHROEDER, THOMAS, and SILVERMAN, Circuit Judges.

Nevada state prisoner Johnnie Lambert appeals pro se from the district court's order denying his motion for reconsideration of its dismissal of his 42 U.S.C. § 1983 action alleging deliberate indifference to his serious medical needs.

* 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).

We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993). We affirm.

The district court did not abuse its discretion in denying the motion for reconsideration because Lambert failed to show grounds warranting reconsideration of the court's decision dismissing Lambert's complaint on the basis that it implicated state tort law causes of action rather than Eighth Amendment deliberate indifference to serious medical needs. *See id.* at 1263 (setting forth grounds for reconsideration); *see also Toguchi v. Chung*, 391 F.3d 1051, 1057 (9th Cir. 2004) (negligence is insufficient to establish deliberate indifference); *Nat'l Ass'n for the Advancement of Psychoanalysis v. Cal. Bd. of Psychology*, 228 F.3d 1043, 1049 (9th Cir. 2000) (explaining "we may consider facts contained in documents attached to the complaint" in determining whether the complaint states a claim for relief).

Lambert's remaining contentions are unpersuasive.

AFFIRMED.