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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>REX JEFFREY WALLS,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>PHAN, Doctor; et al.,</p> <p>Defendants - Appellees.</p>

No. 11-16750

D.C. No. 2:10-cv-01616-NVW

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Neil V. Wake, District Judge, Presiding

Submitted July 17, 2012**

Before: SCHROEDER, THOMAS, and SILVERMAN, circuit judges.

Arizona state prisoner Rex Jeffrey Walls appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging civil rights violations. We review de novo, *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir.

* 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).

2004), and we affirm.

The district court properly granted summary judgment as to Walls's Eighth Amendment claims because Walls failed to raise a genuine dispute of material fact as to whether defendants were deliberately indifferent in treating his hernia. *See Farmer v. Brennan*, 511 U.S. 825, 834-35 (1994) (holding Eighth Amendment claim requires prison official to have a sufficiently culpable state of mind).

The district court properly dismissed Walls's First Amendment claim regarding his religious dietary restrictions because he failed to exhaust administrative remedies with respect to this claim. *See Woodford v. Ngo*, 548 U.S. 81, 85, 93-95 (2006) (holding that "proper exhaustion" is mandatory and requires adherence to administrative procedural rules).

Walls's remaining contentions, including his argument regarding the unauthorized use of his medical records, are unavailing.

Walls's "Motion to Withdraw All Appellant Medical Files From Attorney" and his motion for default judgment are denied.

AFFIRMED.