

SEP 19 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PIERRE L. HOFFMAN,

Plaintiff - Appellant,

v.

CHARLES D. LEE; et al.,

Defendants - Appellees.

No. 10-16737

D.C. No. 5:08-cv-04499-JW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
James Ware, Chief Judge, Presiding

Submitted September 10, 2012**

Before: WARDLAW, CLIFTON, and N.R. SMITH, Circuit Judges.

California state prisoner Pierre L. Hoffman 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 and safety. We have jurisdiction under

* 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).

28 U.S.C. § 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 Hoffman failed to raise a genuine dispute of material fact as to whether defendants knew of and disregarded an excessive risk to his health or safety. *See id.* at 1058 (prison officials act with deliberate indifference only if they know of and disregard an excessive risk to inmate health or safety, and a mere difference of opinion concerning the appropriate course of treatment does not amount to deliberate indifference).

Hoffman's motion for default, received on January 7, 2011, is ordered filed and is denied as moot.

AFFIRMED.