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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>FREDERICK J. FISCHER,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>DAVID KENNEY, Medical Director,</p> <p>Defendant - Appellee.</p>
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No. 11-35595

D.C. No. 2:10-cv-01088-JCC

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
John C. Coughenour, District Judge, Presiding

Submitted March 12, 2013**

Before: PREGERSON, REINHARDT, and W. FLETCHER, Circuit Judges.

Frederick J. Fischer 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. § 1291. We review

* 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).

de novo, *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004), and we affirm.

The district properly granted summary judgment on Fischer's narcolepsy and skin infection claims because Fischer failed to raise a genuine dispute of material fact as to whether defendant was deliberately indifferent to Fischer's condition. *See Jackson v. McIntosh*, 90 F.3d 330, 332 (9th Cir. 1996) (difference in opinion between the physician and the prisoner concerning the appropriate course of treatment does not amount to deliberate indifference to serious medical needs); *see also Toguchi*, 391 F.3d at 1057-58 (prison officials act with deliberate indifference only if they know of and disregard an excessive risk to an inmate's health or safety).

AFFIRMED.