

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

AUG 02 2013

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

IVAN VERNORD CLEVELAND,

Plaintiff - Appellant,

v.

PHUC T. LAM, Dr.,

Defendant - Appellee,

J. CHUDY, et al.,

Defendants.

No. 12-15900

D.C. No. 3:10-cv-05350-CRB

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, District Judge, Presiding

Submitted July 24, 2013**

Before: ALARCÓN, CLIFTON, and CALLAHAN, Circuit Judges.

California state prisoner Ivan Vernord Cleveland appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging

* 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).

deliberate indifference and other claims. We have jurisdiction under 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 on Cleveland's deliberate indifference claim because, even assuming that his coughing disorder and lipomas constituted serious medical conditions, Cleveland failed to raise a genuine dispute of material fact as to whether defendant Lam consciously disregarded any risk they posed to Cleveland's health. *See Farmer v. Brennan*, 511 U.S. 825, 833-35 (1994) (setting forth elements of deliberate indifference); *Toguchi*, 391 F.3d at 1057-58 (explaining that neither prisoner's difference of opinion with prison medical authorities regarding treatment, nor negligence in diagnosing or treating a medical condition, gives rise to a § 1983 claim).

Cleveland's contentions regarding the district court's alleged failure to review all the evidence, and defendant Lam's alleged attempts to intimidate him during this litigation, are unpersuasive.

AFFIRMED.