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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOSEPH B. MATTHEWS,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>LAHEY, Nurse; et al.,</p> <p>Defendants - Appellees.</p>
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No. 13-15463

D.C. No. 2:09-cv-02415-GEB-KJN

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Garland E. Burrell, Jr., District Judge, Presiding

Submitted February 18, 2014\*\*

Before: ALARCÓN, O’SCANNLAIN, and FERNANDEZ, Circuit Judges.

Joseph B. Matthews, a California state prisoner, 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 de novo, *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th

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\* 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).

Cir. 2004), and we affirm.

The district court properly granted summary judgment because Matthews failed to raise a genuine dispute of material fact as to whether defendants were deliberately indifferent to his right clavicle fracture. *See id.* at 1057-60 (a prison official acts with deliberate indifference only if he or she knows of and disregards an excessive risk to a prisoner's health and safety; negligence and a mere difference in medical opinion are insufficient); *see also Starr v. Baca*, 652 F.3d 1202, 1207 (9th Cir. 2011) (discussing the requirements for establishing supervisory liability).

Matthews' contention that he did not receive proper notice of the requirements to oppose summary judgment is unpersuasive.

**AFFIRMED.**