

JUL 31 2014

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN WAYNE WARDEN, Jr.,

Plaintiff - Appellant,

v.

NAYELIE BARRIGAN, CRN, Certified
Registered Nurse at ADOC Yuma,
Cocopah Medical Unit; et al.,

Defendants - Appellees.

No. 13-15989

D.C. No. 2:11-cv-01461-DGC

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
David G. Campbell, District Judge, Presiding

Submitted July 22, 2014**

Before: GOODWIN, CANBY, and CALLAHAN, Circuit Judges.

Former Arizona state prisoner John Wayne Warden, Jr., 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

* 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).

U.S.C. § 1291. We review de novo. *Szajer v. City of Los Angeles*, 632 F.3d 607, 610 (9th Cir. 2011). We affirm.

The district court properly granted summary judgment because Warden failed to raise a genuine dispute of material fact as to whether defendants were deliberately indifferent by denying or delaying post-operative treatment for his left eye, or by interfering with his ability to receive post-operative treatment. *See Toguchi v. Chung*, 391 F.3d 1051, 1057-58 (9th Cir. 2004) (prison officials act with deliberate indifference only if they know of and disregard an excessive risk to inmate health; a prisoner's difference of opinion concerning the course of treatment does not amount to deliberate indifference); *Hallett v. Morgan*, 296 F.3d 732, 745-46 (9th Cir. 2002) (delay of medical treatment does not constitute deliberate indifference unless delay led to further injury).

We reject Warden's contention that the district court abused its discretion in considering defendants' evidence.

AFFIRMED.