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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>KEITH W. CANDLER,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>HAMMONS, Correctional Officer,</p> <p>Defendant - Appellee.</p>

No. 13-16632

D.C. No. 2:11-cv-01969-JAM-CKD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
John A. Mendez, District Judge, Presiding

Submitted August 13, 2014**

Before: SCHROEDER, THOMAS, and HURWITZ, Circuit Judges.

Keith W. Candler, a California state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging deliberate

* 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).

indifference to his serious medical needs.¹ We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir. 2006). We may affirm on any basis supported by the record, *Johnson v. Riverside Healthcare Sys., LP*, 534 F.3d 1116, 1121 (9th Cir. 2008), and we affirm.

Summary judgment was proper because Candler failed to raise a genuine dispute of material fact as to whether Hammons was deliberately indifferent to his asthma and breathing problems. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994) (a prison official is deliberately indifferent only if he or she “knows of and disregards an excessive risk to inmate health”); *see also Lemire v. Cal. Dep’t of Corr. & Rehab.*, 726 F.3d 1062, 1084 (9th Cir. 2013) (defendants “did not act with deliberate indifference toward [the prisoner] as they reasonably relied on the expertise of the prison’s medical staff”); *Jett*, 439 F.3d at 1096 (if the harm is an isolated exception to the prisoner’s overall treatment, it ordinarily militates against a finding of deliberate indifference).

The district court did not abuse its discretion by denying Candler’s motion for appointment of counsel because Candler failed to demonstrate exceptional

¹ Candler filed his complaint and appeal under the name “Keith *Candler*.” However, he is imprisoned under the name “Keith *Chandler*.” Candler’s prison medical records and many of the documents filed in the district court, including the relevant district court orders, refer to Appellant as “Keith *Chandler*.”

circumstances. *See Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (setting forth standard of review and requirement of “exceptional circumstances” for appointment of counsel).

AFFIRMED.