

OCT 9 2014

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MICHAEL T. McLAUGHLIN,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>BRIAN E. WILLIAMS; et al.,</p> <p>Defendants - Appellees.</p>
--

No. 13-16761

D.C. No. 2:13-cv-00840-APG-NJK

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Andrew P. Gordon, District Judge, Presiding

Submitted September 23, 2014**

Before: W. FLETCHER, RAWLINSON, and CHRISTEN, Circuit Judges.

Nevada state prisoner Michael T. McLaughlin appeals pro se from the district court’s 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 do novo. *Hamilton v. Brown*, 630 F.3d 889, 892 (9th Cir.

* 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).

2011) (dismissal under 28 U.S.C. § 1915A); *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998) (order) (dismissal under 28 U.S.C. § 1915(e)(2)). We affirm.

The district court properly dismissed McLaughlin's action because McLaughlin failed to allege facts sufficient to show that defendants were deliberately indifferent to his back injury. *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; neither a difference of opinion concerning the course of treatment nor negligence in treating a medical condition amounts to deliberate indifference).

The district court did not abuse its discretion by dismissing without leave to amend. *See Hartmann v. Cal. Dep't of Corr. & Rehab.*, 707 F.3d 1114, 1130 (9th Cir. 2013) ("A district court may deny leave to amend when amendment would be futile.").

The district court did not abuse its discretion by denying McLaughlin's motion for reconsideration. *See Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth standard of review and factors for reconsideration under Fed. R. Civ. P. 59(e) and 60(b)).

AFFIRMED.