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U.S. COURT OF APPEALS

## NOT FOR PUBLICATION

## UNITED STATES COURT OF APPEALS

## FOR THE NINTH CIRCUIT

MICHAEL JAMES HICKS,

Plaintiff - Appellant,

v.

LINDA NEAL, Program Director; et al.,

Defendants - Appellees.

No. 13-17343

D.C. No. 3:12-cv-02207-SI

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Susan Illston, District Judge, Presiding

Submitted October 14, 2014\*\*

Before: LEAVY, GOULD, and BERZON, Circuit Judges.

California state prisoner Michael James Hicks appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging that defendants were deliberately indifferent to his safety and serious medical needs. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Toguchi v.*

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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).

*Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004). We affirm.

The district court properly granted summary judgment because Hicks failed to raise a genuine dispute of material fact as to whether defendants acted in conscious disregard of a risk to any serious health or safety issue. *See id.* at 1057-58 (a prison official acts with deliberate indifference only if she knows of and disregards an excessive risk to the prisoner’s health and safety); *see also Jackson v. McIntosh*, 90 F.3d 330, 332 (9th Cir. 1996) (a difference of opinion as to the need to pursue one course of treatment over another is not actionable under the Eighth Amendment).

The district court did not abuse its discretion in denying Hicks’s motion for appointment of counsel because Hicks failed to demonstrate exceptional circumstances. *See Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991) (setting forth standard of review and explaining “exceptional circumstances” requirement).

We reject Hicks’s contentions that the district court erred by denying his motions for service of subpoenas and to amend named parties and the nature of his action.

Hicks’s request for judicial notice, filed on June 4, 2014, is denied.

**AFFIRMED.**