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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>DALE R. STEIN,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>G. WOODS, DDS; et al.,</p> <p>Defendants - Appellees.</p> |
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No. 13-16968

D.C. No. 3:11-cv-01243-JSW

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Jeffrey S. White, District Judge, Presiding

Submitted January 21, 2015\*\*

Before: CANBY, GOULD, and N.R. SMITH, Circuit Judges.

Dale R. Stein, 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 dental needs. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir.

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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).*

2004), and we affirm.

The district court properly granted summary judgment because Stein failed to raise a genuine dispute of material fact as to whether defendants were deliberately indifferent to his dental problems and associated pain. *See id.* at 1057-58 (a prison official acts with deliberate indifference only if he or she knows of and disregards an excessive risk to the prisoner’s health and safety; negligence and a mere difference in medical opinion are insufficient); *Jackson v. McIntosh*, 90 F.3d 330, 332 (9th Cir. 1996) (to establish that a difference of opinion amounted to deliberate indifference, a prisoner “must show that the course of treatment the doctors chose was medically unacceptable under the circumstances” and “that they chose this course in conscious disregard of an excessive risk to [the prisoner’s] health”); *see also Peralta v. Dillard*, 744 F.3d 1076, 1086-88 (9th Cir. 2014) (en banc) (official whose only role was reviewing internal appeal does not act with deliberate indifference absent knowledge of a substantial risk of serious harm).

**AFFIRMED.**