

JUN 23 2016

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TIMOTHY ALLAN DUNLAP,

Plaintiff - Appellant,

v.

DENNIS FRICK,

Defendant - Appellee.

No. 15-35225

D.C. No. 1:13-cv-00299-CWD

MEMORANDUM*

Appeal from the United States District Court
for the District of Idaho
Candy W. Dale, Magistrate Judge, Presiding**

Submitted June 14, 2016***

Before: BEA, WATFORD, and FRIEDLAND, Circuit Judges.

Idaho state prisoner Timothy Allan Dunlap appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging that defendant

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

*** The panel unanimously concludes this case is suitable for decision without oral argument and denies Dunlap's requests for oral argument, set forth in his opening brief and in separate motions. *See* Fed. R. App. P. 34(a)(2).

deprived him of food in violation of the Eighth Amendment. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004). We affirm.

The district court properly granted summary judgment because Dunlap failed to raise a genuine dispute of material fact as to whether being provided two meals on weekend days constituted a sufficiently serious deprivation under the Eighth Amendment. *See Foster v. Runnels*, 554 F.3d 807, 812, 814 (9th Cir. 2009) (two-part showing required to establish a violation of the Eighth Amendment, including an objective showing that there was a sufficiently serious deprivation of the minimal civilized measure of life's necessities); *LeMaire v. Maass*, 12 F.3d 1444, 1456 (9th Cir. 1993) (“The Eighth Amendment requires only that prisoners receive food that is adequate to maintain health.”).

All pending motions and requests are denied.

AFFIRMED.