

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 21 2017

FOR THE NINTH CIRCUIT

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

ALDEN LAMONT MOORE,

No. 15-56027

Plaintiff-Appellant,

D.C. No. 3:13-cv-00347-JAH-BLM

v.

MEMORANDUM*

C. HAMMOND; et al.,

Defendants-Appellees.

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

Submitted April 11, 2017**

Before: GOULD, CLIFTON, and HURWITZ, Circuit Judges.

Alden Lamont Moore, a California state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging a violation of his rights under Title II of the Americans with Disabilities Act ("ADA"). We have jurisdiction under 28 U.S.C. § 1291. We review de novo,

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Toguchi v. Chung, 391 F.3d 1051, 1056 (9th Cir. 2004), and we affirm.

The district court properly granted summary judgment on Moore’s claim for monetary damages because Moore failed to raise a genuine dispute of material fact as to whether defendants were deliberately indifferent to his disability. *See Duvall v. County of Kitsap*, 260 F.3d 1124, 1138-39 (9th Cir. 2001) (claims for monetary relief under Title II of the ADA require the plaintiff to establish intentional discrimination based on deliberate indifference, namely, “both knowledge that a harm to a federally protected right is substantially likely, and a failure to act upon that . . . likelihood”).

Moore has waived his right to appeal the district court’s summary judgment on his claim for injunctive relief. *See Yeti by Molly, Ltd. v. Deckers Outdoor Corp.*, 259 F.3d 1101, 1108 (9th Cir. 2001) (“A stipulation . . . is tantamount to a waiver of an issue for appeal.”) (citation and internal quotation marks omitted).

We reject as meritless Moore’s contentions concerning ineffective assistance of counsel. *See Nicholson v. Rushen*, 767 F.2d 1426, 1427 (9th Cir. 1985) (“Generally, a plaintiff in a civil case has no right to effective assistance of counsel.”).

Moore’s motion regarding his personal property (Docket Entry No. 28) is denied.

AFFIRMED.