

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 30 2019

FOR THE NINTH CIRCUIT

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

MARIO MARTINEZ ARIAS,

No. 18-17101

Plaintiff-Appellant,

D.C. No. 1:14-cv-00764-LJO-BAM

v.

MEMORANDUM*

A. JOHAL, Medical Doctor at North Kern
State Prison; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O'Neill, District Judge, Presiding

Submitted May 21, 2019**

Before: THOMAS, Chief Judge, and FRIEDLAND and BENNETT, Circuit
Judges.

Mario Martinez Arias, 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 a serious medical need. We have jurisdiction under 28

* 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).

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 Arias failed to raise a genuine dispute of material fact as to whether defendant Johal was deliberately indifferent to Arias's need for post-operative treatment of his right foot. *See id.* at 1057-60 (difference of opinion concerning course of treatment, medical malpractice, or negligence in diagnosing or treating a medical condition does not amount to deliberate indifference).

We reject as meritless Arias's contention that the district court erred by not considering his statements as qualified medical opinions.

AFFIRMED.