

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 2 2020

FOR THE NINTH CIRCUIT

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

DARYL D. HENDERSON,

No. 19-56202

Plaintiff-Appellant,

D.C. No. 2:17-cv-06314-MWF-
FFM

v.

L. SPRAGUE, M.D., Chief Physician in
individual capacity,

MEMORANDUM*

Defendant-Appellee.

Appeal from the United States District Court
for the Central District of California
Michael W. Fitzgerald, District Judge, Presiding

Submitted October 26, 2020**

Before: McKEOWN, RAWLINSON, and FRIEDLAND, Circuit Judges.

California state prisoner Daryl D. Henderson appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging deliberate indifference to his serious medical needs. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Hebbe v. Pliler*, 627 F.3d 338, 341 (9th Cir. 2010).

* 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).

We affirm.

The district court properly dismissed Henderson's action because Henderson failed to allege facts sufficient to show that Dr. Sprague was deliberately indifferent to Henderson's chronic nasal congestion and pain. *See Toguchi v. Chung*, 391 F.3d 1051, 1057-60 (9th Cir. 2004) (holding that deliberate indifference is a high legal standard and a prison official is deliberately indifferent only if he or she knows of and disregards an excessive risk to inmate health; a difference of opinion concerning the course of treatment does not amount to deliberate indifference); *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001) (district court need not accept as true allegations that contradict matters properly subject to judicial notice or by exhibit).

We reject as unsupported by the record Henderson's contentions that defendant prepared and offered false evidence in these proceedings.

AFFIRMED.