

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 23 2021

FOR THE NINTH CIRCUIT

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

WILLIAM JAMES MATHEW WALLACE
II,

No. 20-35670

Plaintiff-Appellant,

D.C. No. 3:19-cv-05330-RJB

v.

MEMORANDUM*

FRANK LONGANO, Dr - WCC; et al.,

Defendants-Appellees,

and

DEPARTMENT OF CORRECTIONS OF
WASHINGTON,

Defendant.

Appeal from the United States District Court
for the Western District of Washington
Robert J. Bryan, District Judge, Presiding

Submitted February 17, 2021**

Before: FERNANDEZ, BYBEE, and BADE, Circuit Judges.

* 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).

Former Washington state prisoner William James Mathew Wallace II appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 and Americans with Disabilities Act ("ADA") action alleging deliberate indifference to his serious medical needs and disability discrimination. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's ruling on cross-motions for summary judgment. *Hamby v. Hammond*, 821 F.3d 1085, 1090 (9th Cir. 2016). We affirm.

The district court properly granted summary judgment for defendants because Wallace failed to raise a genuine dispute of material fact as to whether defendants were deliberately indifferent to his medical needs resulting from his pre-existing injury to his foot. *See Toguchi v. Chung*, 391 F.3d 1051, 1060-61 (9th Cir. 2004) (deliberate indifference is a high legal standard requiring a defendant be aware of and disregard an excessive risk to an inmate's health); *Duvall v. County of Kitsap*, 260 F.3d 1124, 1138-39 (9th Cir. 2001) (plaintiff must show deliberate indifference in order to demonstrate intentional discrimination under the ADA).

AFFIRMED.