

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 25 2021

FOR THE NINTH CIRCUIT

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

CHARLES WAYNE MARIETTA,

No. 20-15234

Plaintiff-Appellant,

D.C. No. 3:18-cv-08064-MTL-
CDB

v.

LEANNE LoBUE, Nurse Practitioner; et al.,

MEMORANDUM*

Defendants-Appellees.

Appeal from the United States District Court
for the District of Arizona

Michael T. Liburdi, District Judge, Presiding

Submitted June 21, 2021**

Before: SILVERMAN, WATFORD, and BENNETT, Circuit Judges.

Charles Wayne Marietta appeals pro se from the district court's summary judgment in 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. *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004). We affirm.

* 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).

The district court properly granted summary judgment for defendants LoBue and Erno because Marietta failed to raise a genuine dispute of material fact as to whether these defendants were deliberately indifferent in the treatment of Marietta's renal stenosis or other serious health conditions. *See id.* at 1057-60 (deliberate indifference is a high legal standard; medical malpractice, negligence, or a difference of opinion concerning the course of treatment does not amount to deliberate indifference); *Hallett v. Morgan*, 296 F.3d 732, 746 (9th Cir. 2002) (a prisoner alleging deliberate indifference based on delay in treatment must show that the delay caused significant harm); *see also Starr v. Baca*, 652 F.3d 1202, 1207-08 (9th Cir. 2011) (requirements for establishing supervisory liability).

Summary judgment for defendant Correct Care Solutions ("CCS") was proper because Marietta failed to raise a genuine dispute of material fact as to whether CCS caused Marietta to suffer constitutional injuries under any potentially applicable standard. *See Castro v. County of Los Angeles*, 833 F.3d 1060, 1073-76 (9th Cir. 2016) (en banc) (discussing requirements to establish liability under *Monell v. Department of Social Services*, 436 U.S. 658 (1978)); *Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1139 (9th Cir. 2012) (a private entity is liable under § 1983 only if the entity acted under color of state law and a constitutional violation was caused by the entity's official policy or custom); *Starr*, 652 F.3d at 1207-08.

We reject as without merit Marietta's contention that the district court erred by ordering defendants to produce documents concerning the medical care Marietta received after he filed the operative complaint.

AFFIRMED.