

FILED

OCT 27 2021

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WARREN CLEVELAND GREEN,

Plaintiff-Appellant,

v.

GALEN H. CHURCH; J. AGARWAL,
Dr.; MONTAUK, Dr.; MICHAEL
MARTEL, Warden; ANISE ADAMS,
Chief Medical Executive; AKINTOLA,

Defendants-Appellees.

No. 21-15249

D.C. No.

2:18-cv-01931-WBS-KJN

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, District Judge, Presiding

Submitted October 25, 2021**

Before: FERNANDEZ, SILVERMAN, and NGUYEN, Circuit Judges

Warren Green appeals the district court's grant of summary judgment in
favor of Dr. Agarwal in Green's prisoner civil rights action alleging deliberate

* 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).

indifference to a serious medical need. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Jett v. Penner*, 439 F.3d 1091, 1096 (9th Cir. 2006), and affirm.

Summary judgment was proper for the defendant. At most, Green established a difference of opinion between himself and the medical professionals regarding diagnosis and treatment of his serious medical need. Such a difference of opinion does not rise to the level of deliberate indifference. *Toguchi v. Chung*, 391 F.3d 1051, 1058 (9th Cir. 2004); *Sanchez v. Vild*, 891 F.2d 240, 242 (9th Cir. 1989). Nor would negligence rise to the level of deliberate indifference. *Jett*, 439 F.3d at 1096.

AFFIRMED.