

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 25 2022

FOR THE NINTH CIRCUIT

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

JEFFREY E. RODRIGUEZ,

No. 21-15994

Plaintiff-Appellant,

D.C. No. 2:20-cv-00527-DWL-JFM

v.

MEMORANDUM*

TODD THOMAS, Warden at Saguaro
Correctional Center; PEREZ, Nurse at
Saguaro Correctional Center; D. MARR,
Health Services Administrator at Saguaro
Correctional Center; N. SAMBERG,
Assistant Chief of Security at Saguaro
Correctional Center; ORTEGA, Hotel
Bravo's Unit Counselor at Saguaro
Correctional Center; J. VALENZUELA,
Grievance Coordinator at Saguaro
Correctional Center; B. GRIEGO, Assistant
Warden at Saguaro Correctional Center,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Arizona
Dominic Lanza, District Judge, Presiding

Submitted February 15, 2022**

* 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).

Before: FERNANDEZ, TASHIMA, and FRIEDLAND, Circuit Judges.

Nevada state prisoner Jeffrey E. Rodriguez 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.

The district court properly granted summary judgment because Rodriguez failed to raise a genuine dispute of material fact as to whether defendant Perez was deliberately indifferent to his migraine condition. *See id.* at 1060-61 (a prison official is deliberately indifferent only if he or she knows of and disregards an excessive risk to inmate health; medical malpractice, negligence, or difference of opinion concerning the course of treatment does not amount to deliberate indifference).

We do not consider arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

We do not consider documents and facts not presented to the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990).

AFFIRMED.