

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 18 2022

FOR THE NINTH CIRCUIT

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

ANTHONY MARCO RAMIREZ,

No. 21-16044

Plaintiff-Appellant,

D.C. No. 4:19-cv-03315-JSW

v.

MEMORANDUM*

RON DAVIS, Warden, San Quentin; ANDY
CRUMP, Chief Plant Manager,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of California
Jeffrey S. White, District Judge, Presiding

Submitted July 12, 2022**

Before: SCHROEDER, R. NELSON, and VANDYKE, Circuit Judges.

Former California state prisoner Anthony Marco Ramirez appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging deliberate indifference to his health and safety. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Toguchi v. Chung*, 391 F.3d 1051, 1056

* 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).

(9th Cir. 2004). We affirm.

The district court properly granted summary judgment because Ramirez failed to raise a genuine dispute of material fact as to whether defendants were deliberately indifferent by failing to inspect and maintain the prison's cooling tower. *See Farmer v. Brennan*, 511 U.S. 825, 837 (1994) (a prison official is deliberately indifferent only if he "knows of and disregards an excessive risk to inmate health or safety; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference").

The district court did not abuse its discretion by denying Ramirez's request for leave to file a sur-reply because it reviewed the briefing and found that there were no new issues raised by defendants' reply brief that necessitated more argument. *See Sec. & Exch. Comm'n v. Seaboard Corp.*, 677 F.2d 1301, 1314 (9th Cir. 1982) (setting forth standard of review).

AFFIRMED.