

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 19 2024

FOR THE NINTH CIRCUIT

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

ADAM RAY LOPEZ,

No. 22-55174

Plaintiff-Appellant,

D.C. No. 3:20-cv-02236-CAB-NLS

v.

MEMORANDUM\*

SAMUEL KO, Primary Care Physician;  
MAJA BOYD, Nurse Practitioner,

Defendants-Appellees.

Appeal from the United States District Court  
for the Southern District of California  
Cathy Ann Bencivengo, District Judge, Presiding

Submitted January 17, 2024\*\*

Before: S.R. THOMAS, McKEOWN, and HURWITZ, Circuit Judges.

Adam Ray Lopez, a California state prisoner, 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.

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\* 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).

2004), and we affirm.

The district court properly granted summary judgment because Lopez failed to raise a genuine dispute of material fact as to whether defendants were deliberately indifferent in treating Lopez's wrist injury. *See id.* at 1057-60 (prison officials act with deliberate indifference only if they know of and disregard a risk to the prisoner's health; medical malpractice, negligence, or difference of opinion concerning the course of treatment does not amount to deliberate indifference).

The district court did not abuse its discretion in denying Lopez's motions for appointment of counsel because Lopez failed to establish exceptional circumstances. *See Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (setting forth standard of review and "exceptional circumstances" requirement for appointment of counsel for indigent civil litigants).

The district court did not abuse its discretion in denying Lopez's motion to appoint an expert witness because such an appointment was not necessary for the court to make its determination. *See Walker v. Am. Home Shield Long Term Disability Plan*, 180 F.3d 1065, 1071 (9th Cir. 1999) (setting forth standard of review).

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).

**AFFIRMED.**