

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 25 2025

FOR THE NINTH CIRCUIT

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

DEREK TATE,

Plaintiff - Appellant,

v.

D. DELGADILLO,

Defendant - Appellee.

No. 23-3498

D.C. No. 5:20-cv-09476-EJD

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Edward J. Davila, District Judge, Presiding

Submitted April 22, 2025\*\*

Before: GRABER, H.A. THOMAS, and JOHNSTONE, Circuit Judges.

California state prisoner Derek Tate appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging First and Eighth Amendment violations. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *S.R. Nehad v. Browder*, 929 F.3d 1125, 1132 (9th Cir. 2019). We reverse

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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).

and remand.

In reviewing the district court's grant of summary judgment, "we view the facts in the light most favorable to the nonmoving party and draw all inferences in that party's favor." *Id.* Taking the facts in the light most favorable to Tate, and drawing all inferences in his favor, we conclude that genuine disputes of material fact exist as to both Tate's First and Eighth Amendment claims. We reverse the judgment and remand for further proceedings.

Tate's motion for sanctions (Docket Entry No. 19) is denied.

**REVERSED and REMANDED.**