NOT FOR PUBLICATION

FILED

JUN 25 2026

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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JASON AMICO, Plaintiff - Appellant, v. IDALBERTO ZALDIVAR-GALVES, Physician, Defendant - Appellee.	No. 25-3960 D.C. No. 1:22-cv-01499-KES-SAB MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Kirk Edward Sherriff, District Judge, Presiding

Submitted June 22, 2026**

Before: CANBY, BENNETT, and BADE, Circuit Judges.

California state prisoner Jason Amico 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

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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).

review de novo. *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004). We affirm.

The district court properly granted summary judgment because Amico failed to raise a genuine dispute of material fact as to whether Dr. Zaldivar-Galves was deliberately indifferent in responding to Amico's complaints of eye pain and other eye-related symptoms. *See Hamby v. Hammond*, 821 F.3d 1085, 1092 (9th Cir. 2016) (stating that a difference of opinion between a physician and a prisoner—or between medical professionals—concerning appropriate medical care does not amount to deliberate indifference); *Toguchi*, 391 F.3d at 1060 ("A showing of medical malpractice or negligence is insufficient to establish a constitutional deprivation under the Eighth Amendment.").

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.