

OCT 06 2010

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JONATHAN LOVE,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>ROBERT MEKEMSON; et al.,</p> <p>Defendants - Appellees.</p>
--

No. 08-16506

D.C. No. 2:07-cv-01731-LKK-CMK

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence K. Karlton, District Judge, Presiding

Submitted September 13, 2010**

Before: SILVERMAN, CALLAHAN, and N.R. SMITH, Circuit Judges.

Jonathan Love, a California state prisoner, appeals pro se from the district court's judgment dismissing under 28 U.S.C. § 1915A his 42 U.S.C. § 1983 action alleging deliberate indifference to medical needs. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See Fed. R. App. P. 34(a)(2)*.

2000). We affirm.

The district court properly dismissed Love's deliberate indifference claims because the allegations set forth in his amended complaint and the attachments thereto state, at most, a claim for negligence. *See Toguchi v. Chung*, 391 F.3d 1051, 1060 (9th Cir. 2004) ("A showing of medical malpractice or negligence is insufficient to establish a constitutional deprivation under the Eighth Amendment."). Moreover, a difference in opinion between Love and the prison physicians about the preferred course of medical treatment does not constitute an Eighth Amendment violation. *See id.* at 1058.

Love's remaining contentions are unpersuasive.

AFFIRMED.