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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>STEVEN D. PERCELLE,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>ALAN ROSENTHAL, DR.; et al.,</p> <p>Defendants - Appellees.</p>

No. 09-17170

D.C. No. 3:05-cv-01998-WHA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
William H. Alsup, District Judge, Presiding

Submitted November 16, 2010**

Before: TASHIMA, BERZON, and CLIFTON, Circuit Judges.

California state prisoner Steven D. Percelle 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 pursuant to 28

* 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).

U.S.C. § 1291. We review de novo. *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004). We affirm.

The district court properly granted summary judgment because Percelle did not raise a genuine issue of material fact as to whether the defendants knew of and disregarded an excessive risk to him while treating his neurological condition. *See id.* at 1057–58 (a prison official acts with deliberate indifference only if he knows of and disregards an excessive risk to an inmate’s health and safety, and a difference of opinion about the best course of medical treatment does not amount to deliberate indifference).

Percelle’s remaining contentions are unpersuasive.

AFFIRMED.