

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 3 2017

FOR THE NINTH CIRCUIT

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

GUSTAVO ADRIAN PRIEGO,

No. 16-15722

Plaintiff-Appellant,

D.C. No. 3:14-cv-02366-JD

v.

MEMORANDUM\*

SULLIVAN; et al.,

Defendants-Appellees.

Appeal from the United States District Court  
for the Northern District of California  
James Donato, District Judge, Presiding

Submitted June 26, 2017\*\*

Before: PAEZ, BEA, and MURGUIA, Circuit Judges.

California state prisoner Gustavo Adrian Priego 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

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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).

Cir. 2004). We affirm.

The district court properly granted summary judgment because Priego failed to raise a genuine dispute of material fact as to whether defendants were deliberately indifferent to his wrist injury. *See id.* at 1057-60 (a prison official is deliberately indifferent only if he or she knows of and disregards an excessive risk to inmate health; medical malpractice, negligence, or a difference of opinion concerning the course of treatment does not amount to deliberate indifference).

The district court did not abuse its discretion by denying Priego's motion for appointment of counsel because Priego failed to demonstrate exceptional circumstances. *See Cano v. Taylor*, 739 F.3d 1214, 1218 (9th Cir. 2014) (setting forth standard of review and requirements for appointment of counsel).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

Priego's request for judicial notice (Docket Entry No. 31) is denied.

**AFFIRMED.**