

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 21 2018

FOR THE NINTH CIRCUIT

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

DERRICK LEE LYONS,

No. 17-35849

Plaintiff-Appellant,

D.C. No. 3:14-cv-01793-YY

v.

MEMORANDUM\*

MULTNOMAH COUNTY; et al.,

Defendants-Appellees.

Appeal from the United States District Court  
for the District of Oregon  
Michael H. Simon, District Judge, Presiding

Submitted November 8, 2018\*\*  
Portland, Oregon

Before: TALLMAN and IKUTA, Circuit Judges, and BOUGH,\*\*\* District Judge.

Derrick Lyons appeals the district court's order adopting the magistrate judge's finding and recommendation and granting summary judgment for

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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).

\*\*\* The Honorable Stephen R. Bough, United States District Judge for the Western District of Missouri, sitting by designation.

Defendants on Lyons's 42 U.S.C. § 1983 claim of inadequate medical care while he was a pretrial detainee. We have jurisdiction over Lyons's appeal under 28 U.S.C. § 1291 and affirm.

We review a district court's grant of summary judgment *de novo*. *Fair Hous. Council of Riverside Cty., Inc. v. Riverside Two*, 249 F.3d 1132, 1135 (9th Cir. 2001). Summary judgment is appropriate when "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). In making this determination, courts view all facts and reasonable inferences therefrom in the light most favorable to the nonmoving party. *Davis v. United States*, 854 F.3d 594, 598 (9th Cir. 2017). This Court may affirm the district court on any ground supported by the record. *Experian Info. Sols., Inc. v. Nationwide Mktg. Servs. Inc.*, 893 F.3d 1176, 1187 (9th Cir. 2018).

Here, although the district court did not have the benefit of *Gordon v. County of Orange*, 888 F.3d 1118 (9th Cir. 2018), there is sufficient evidence in the record to affirm the district court. The record shows no objective deliberate indifference by Defendants in response to Lyons's dental issue given the frequency of medical appointments and the lack of any evidence that it was a dental emergency. *See id.* at 1124–25. Therefore, nothing in the record gives rise to a genuine dispute of material fact as to whether Defendants' conduct was objectively unreasonable.

**Affirmed.**