

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 23 2021

FOR THE NINTH CIRCUIT

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

WILLIAM JAMES MATHEW WALLACE  
II,

Plaintiff-Appellant,

v.

FRANK LONGANO, Dr - WCC; et al.,

Defendants-Appellees,

and

DEPARTMENT OF CORRECTIONS OF  
WASHINGTON,

Defendant.

No. 20-35670

D.C. No. 3:19-cv-05330-RJB

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
Robert J. Bryan, District Judge, Presiding

Submitted February 17, 2021\*\*

Before: FERNANDEZ, BYBEE, and BADE, Circuit Judges.

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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).

Former Washington state prisoner William James Mathew Wallace II appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 and Americans with Disabilities Act ("ADA") action alleging deliberate indifference to his serious medical needs and disability discrimination. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's ruling on cross-motions for summary judgment. *Hamby v. Hammond*, 821 F.3d 1085, 1090 (9th Cir. 2016). We affirm.

The district court properly granted summary judgment for defendants because Wallace failed to raise a genuine dispute of material fact as to whether defendants were deliberately indifferent to his medical needs resulting from his pre-existing injury to his foot. *See Toguchi v. Chung*, 391 F.3d 1051, 1060-61 (9th Cir. 2004) (deliberate indifference is a high legal standard requiring a defendant be aware of and disregard an excessive risk to an inmate's health); *Duvall v. County of Kitsap*, 260 F.3d 1124, 1138-39 (9th Cir. 2001) (plaintiff must show deliberate indifference in order to demonstrate intentional discrimination under the ADA).

**AFFIRMED.**