NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PATRICK EDWARD SMRZ,

  Plaintiff - Appellant,

  v.

CORRECTIONAL MEDICAL
SERVICES,

  Defendant - Appellee.

No. 09-35812

D.C. No. 1:07-cv-00340-EJL

MEMORANDUM[*]

Appeal from the United States District Court
for the District of Idaho
Edward J. Lodge, District Judge, Presiding

Submitted November 16, 2010[**]

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

   Idaho state prisoner Patrick Edward Smrz 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.

---

   [*]   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).

§ 1291. We review de novo, *EEOC v. Luce, Forward, Hamilton & Scripps*, 345

F.3d 742, 746 (9th Cir. 2003), and we affirm.

The district court properly granted summary judgment on Smrz's Eighth

Amendment claim because he failed to raise a triable issue as to whether defendant

Correctional Medical Services acted with deliberate indifference through delay in

treating his facial skin cancer or by sending him to a doctor who was not a plastic

surgeon or oncologist. *See Estelle v. Gamble*, 429 U.S. 97, 104-05 (1976);

Franklin v. State of Or., State Welfare Div., 662 F.2d 1337, 1344 (9th Cir. 1981)

(difference of opinion between the prisoner and prison medical authorities

regarding treatment does not amount to deliberate indifference).

We do not consider Smrz's contentions raised for the first time on appeal.

See Travelers Prop. Cas. Co. of Am. v. ConocoPhillips Co., 546 F.3d 1142, 1146

(9th Cir. 2008).

Smrz's remaining contentions are unpersuasive.

We deny Smrz's motion requesting an order for remand.

AFFIRMED.