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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JEREMY GAUTHIER,

Plaintiff - Appellant,

v.

JOHN J. STILES, DOES 1-7,

Defendants - Appellees.

No. 09-56096

D.C. No. 5:08-cv-1488-SJO-RC

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
S. James Otero, District Judge, Presiding

Submitted October 19, 2010\*\*

Before: O'SCANNLAIN, TALLMAN, and BEA, Circuit Judges.

Jeremy Gauthier, a former California state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging deliberate indifference to his serious medical needs by various prison medical personnel. We

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\* 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).

have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Nelson v. Heiss*, 271 F.3d 891, 893 (9th Cir. 2001), and we affirm.

The district court properly dismissed Gauthier's action because neither his disagreement with the dosage or type of pain medicine administered after his nose surgery, nor his dissatisfaction with the denial of prescription strength pain medicine for two days, constituted deliberate indifference to his serious medical needs. *See Toguchi v. Chung*, 391 F.3d 1051, 1058 (9th Cir. 2004) (difference in opinion between an inmate and medical personnel insufficient to constitute indifference to medical needs); *Frost v. Agnos*, 152 F.3d 1124, 1130 (9th Cir. 1998) (alleged delays in administering pain medication, without more, do not constitute deliberate indifference).

The district court also properly dismissed Gauthier's action with prejudice because the defects in his claim could not be cured by amendment. *See McKesson HBOC v. New York State Common Ret. Fund*, 339 F.3d 1087, 1090 (9th Cir. 2003).

Gauthier's remaining contentions are unpersuasive.

**AFFIRMED.**