

MAR 15 2012

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CESAR URIBE,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p>v.</p> <p>BHATT, Physician,</p> <p style="text-align: center;">Defendant - Appellee.</p>

No. 10-17845

D.C. No. 1:07-cv-01064-GMS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
G. Murray Snow, District Judge, Presiding

Submitted March 6, 2012**

Before: B. FLETCHER, REINHARDT, and TASHIMA, Circuit Judges.

Cesar Uribe, a California state prisoner, 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

* 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).

U.S.C. § 1291. We review de novo. *Toguchi v. Chung*, 391 F.3d 1051, 1056 (9th Cir. 2004). We affirm.

The district court properly granted summary judgment because Uribe did not raise a genuine dispute of material fact as to whether defendant was deliberately indifferent to his serious medical needs in treating his nausea. *See Toguchi*, 391 F.3d at 1057-58 (prison officials act with deliberate indifference only if they know of and disregard an excessive risk to a prisoner's health; a difference of opinion about the best course of medical treatment does not amount to deliberate indifference absent a showing that the course of treatment prescribed was medically unacceptable).

The district court did not abuse its discretion in denying Uribe's requests for non-party depositions where the requests were untimely, and there was no showing that the denial of the discovery requests resulted in actual and substantial prejudice. *See Hallett v. Morgan*, 296 F.3d 732, 751 (9th Cir. 2002) (district court's "broad discretion . . . to permit or deny discovery . . . will not be disturbed except upon the clearest showing that denial of discovery results in actual and substantial prejudice") (citation and internal quotation marks omitted)).

Uribe's pending motion for leave of court to withhold his identity from public disclosure is denied. However, in response to his motion, the Clerk is

ordered to seal all records in this case.

AFFIRMED.