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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARK ANTHONY CLEARMAN,

Plaintiff - Appellant,

v.

MS. ELLEN FERNANDO; et al.,

Defendants - Appellees.

No. 10-55522

D.C. No. 2:05-cv-05633-AG-JEM

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Andrew J. Guilford, District Judge, Presiding

Submitted February 21, 2012\*\*

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

Mark Anthony Clearman, a California state prisoner, appeals pro se from the district court's summary judgment in his action brought under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971),

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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).

alleging deliberate indifference to serious medical needs. We have jurisdiction under 28 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 Clearman did not raise a genuine dispute of material fact as to whether defendants were deliberately indifferent to his serious medical needs regarding the appropriate diagnosis and treatment of his shoulder injury. *See Jackson v. McIntosh*, 90 F.3d 330, 332 (9th Cir. 1996) (to establish that a difference of opinion amounted to deliberate indifference, a prisoner “must show that the course of treatment the doctors chose was medically unacceptable under the circumstances . . . and . . . that they chose this course in conscious disregard of an excessive risk to [the prisoner’s] health” (citations omitted)).

Clearman’s remaining contentions, including that the district court failed to construe the evidence in the light most favorable to him, are unpersuasive.

**AFFIRMED.**