

APR 26 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KEITH WAYNE SEKERKE,

Plaintiff - Appellant,

v.

JASON SILVA, Doctor,

Defendant - Appellee.

No. 10-57011

D.C. No. 3:09-cv-00360-JAH-
JMA

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
John A. Houston, District Judge, Presiding

Submitted April 17, 2012**

Before: LEAVY, PAEZ, and BEA, Circuit Judges.

Keith Wayne Sekerke, 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), and we affirm.

The district court properly granted summary judgment because Sekerke's evidence, including his verified complaint, failed to raise a genuine dispute as to whether defendant Silva acted with deliberate indifference in treating his infection and headaches. *See id.* at 1057-58, 1060 (a difference of opinion about the preferred course of medical treatment does not constitute an Eighth Amendment violation and a "showing of medical malpractice or negligence is insufficient to establish a constitutional deprivation").

Sekerke's remaining contentions are unpersuasive.

AFFIRMED.