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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

PAUL ERIAS STELLY, Sr.,

Plaintiff - Appellant,

v.

ELAINE TOOTELL, M.D.; et al.,

Defendants - Appellees.

No. 11-16068

D.C. No. 4:08-cv-01997-CW

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Claudia A. Wilken, District Judge, Presiding

Submitted May 15, 2012**

Before: CANBY, GRABER, and M. SMITH, Circuit Judges.

Former California state prisoner Paul Erias Stelly, Sr., appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging deliberate indifference to his mental health and medical needs while he was

* 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).

incarcerated at San Quentin State Prison. We have jurisdiction under 28 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 Stelly failed to raise a genuine dispute of material fact as to whether he was denied timely or appropriate treatment for his depression, Hepatitis C, or temporal lobe epilepsy seizure disorder. *See id.* at 1058 (prison officials are deliberately indifferent only if they know of and consciously disregard an excessive risk of harm to inmate health). Stelly's disagreement with prison medical staff about his treatment did not constitute deliberate indifference. *See id.*

Stelly's remaining contentions are unpersuasive.

AFFIRMED.