

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 22 2017

FOR THE NINTH CIRCUIT

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

DANTE HANALEI PATTISON,

Plaintiff-Appellant,

v.

THE STATE OF NEVADA, EX REL,
NEVADA DEPARTMENT OF
CORRECTIONS; et al.,

Defendants-Appellees.

No. 15-16912

D.C. No. 3:14-cv-00020-MMD-
VPC

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Miranda M. Du, District Judge, Presiding

Submitted February 14, 2017**

Before: GOODWIN, FARRIS, and FERNANDEZ, Circuit Judges.

Nevada state prisoner Dante Hanalei Pattison appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging retaliation and 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 Ninth Circuit Rule 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 the district court's decision on cross-motions for summary judgment. *Guatay Christian Fellowship v. County of San Diego*, 670 F.3d 957, 970 (9th Cir. 2011). We affirm.

The district court properly granted summary judgment for defendants on Pattison's retaliation claim because Pattison failed to raise a genuine dispute of material fact as to whether defendants retaliated against him because of his earlier lawsuit. *See Rhodes v. Robinson*, 408 F.3d 559, 567-68 (9th Cir. 2005) (setting forth elements of a retaliation claim in the prison context).

The district court properly granted summary judgment for defendants on Pattison's deliberate indifference claim because Pattison failed to raise a genuine dispute of material fact as to whether defendants were deliberately indifferent to his serious medical needs. *See Toguchi v. Chung*, 391 F.3d 1051, 1057 (9th Cir. 2004) (a prison official acts with deliberate indifference only if he or she knows of and disregards an excessive risk to the prisoner's health); *Jackson v. McIntosh*, 90 F.3d 330, 332 (9th Cir. 1996) (difference in opinion between the physician and the prisoner regarding the appropriate course of treatment does not amount to deliberate indifference).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, including discovery and case management issues. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

We reject as unsupported by the record Pattison's contention that the district court was biased against him.

AFFIRMED.