

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

SEP 26 2019

FOR THE NINTH CIRCUIT

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

MICHAEL NATHANIEL ALLEN,

No. 18-16455

Plaintiff-Appellant,

D.C. No. 3:17-cv-00523-WHA

v.

MEMORANDUM\*

TYLER, Nurse Practitioner; et al.,

Defendants-Appellees.

Appeal from the United States District Court  
for the Northern District of California  
William Alsup, District Judge, Presiding

Submitted September 18, 2019\*\*

Before: FARRIS, TASHIMA, and NGUYEN, Circuit Judges.

California state prisoner Michael Nathaniel Allen 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 U.S.C. § 1291. We review de novo. *Toguchi v. Chung*, 391 F.3d 1051, 1056

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\* 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).

(9th Cir. 2004). We affirm.

The district court properly granted summary judgment because Allen failed to raise a genuine dispute of material fact as to whether defendants were deliberately indifferent to Allen's back pain in ordering the removal of Allen's wheelchair. *See id.* at 1057-60 (a prison official is deliberately indifferent only if he or she knows of and disregards an excessive risk to the prisoner's health; a difference of opinion concerning the course of treatment does not amount to deliberate indifference).

We treat Allen's "First Amendment Brief for Memorandum of Points and Authorities in Support of Plaintiff's Response to Defendant[s] Motion for Summary Judgment" (Docket Entry No. 29) as his reply brief.

**AFFIRMED.**