

1 CCDC and Doe Defendants I-III.² (Pl.’s Am. Compl. 2 (Doc. #8).) Plaintiff claims that
2 Defendants subjected him to unconstitutional conditions of confinement in violation of the
3 Eighth and Fourteenth Amendments. (*Id.* at 4.) Plaintiff alleges that Defendants forced him
4 to sleep on the floor, a cot, or a mattress, even though he explained to a nurse that doing so
5 would be detrimental to his prior back injury. (*Id.*) Plaintiff also alleges prison officials denied
6 him adequate medical attention by failing to provide pain medication. (*Id.* at 5.) As a result
7 of Defendants actions, Plaintiff claims he “suffered severe personal injuries to his back.” (*Id.*
8 at 9-10.)

9 **II. LEGAL STANDARD**

10 The purpose of summary judgment is to avoid unnecessary trials when there is no
11 dispute over the facts before the court. *Nw Motorcycle Ass’n v. U.S. Dep’t of Agric.*, 18 F.3d
12 1468, 1471 (9th Cir. 1994). All reasonable inferences are drawn in favor of the non-moving
13 party. *In re Slatkin*, 525 F.3d 805, 810 (9th Cir. 2008) (citing *Anderson v. Liberty Lobby, Inc.*,
14 477 U.S. 242, 244 (1986)). Summary judgment is appropriate if “the pleadings, the discovery
15 and disclosure materials on file, and any affidavits show that there is no genuine issue as to any
16 material fact and that the movant is entitled to judgment as a matter of law.” *Id.* (citing Fed.
17 R. Civ. P. 56(c)). Where reasonable minds could differ on the material facts at issue, however,
18 summary judgment is not appropriate. *Warren v. City of Carlsbad*, 58 F.3d 439, 441 (9th Cir.
19 1995), *cert. denied*, 516 U.S. 1171 (1996). In deciding whether to grant summary judgment, the
20 court must view all evidence and any inferences arising from the evidence in the light most
21 favorable to the nonmoving party. *Bagdadi v. Nazar*, 84 F.3d 1194, 1197 (9th Cir. 1996). In
22 doing so, the court must defer to the professional judgment of prison administrators when an

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25 ² Plaintiff has failed to amend his complaint to add the names of individuals alleged to have violated his
26 constitutional rights. Generally, the use of Doe pleading is disfavored in federal court. *Gillespie v. Civiletti*, 629
27 F.2d 637, 642 (9th Cir. 1980). In circumstances where the identity of the alleged defendants is not known prior
28 to the filing of a complaint, a plaintiff is given an opportunity through discovery to identify the unknown
defendants. *Id.* Plaintiff has been given an opportunity through discovery to identify the individual defendants
and has failed to participate in discovery. Thus, Plaintiff’s allegations against Doe Defendants I-III should be
dismissed.

1 Defendant CCDC argues that Plaintiff fails to provide evidence showing that any
2 individual subjected him to unconstitutional conditions of confinement and that Plaintiff fails
3 to establish a basis for municipal liability. (Def.'s Mot. for Summ. J. 6-9.)

4 Under the Eighth Amendment, prison conditions should not “involve the wanton and
5 unnecessary infliction of pain” or be “grossly disproportionate to the severity of the crime
6 warranting imprisonment.” *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981). A prisoner can
7 establish an Eighth Amendment violation arising from deficient medical care if he can prove
8 that prison officials were deliberately indifferent to a serious medical need. *Estelle v. Gamble*,
9 429 U.S. 97, 104 (1976). A finding of deliberate indifference involves the examination of two
10 elements: the seriousness of the prisoner’s medical need and the nature of the defendant’s
11 responses to that need. *McGuckin v. Smith*, 974 F.2d 1050, 1059 (9th Cir. 1992). A “serious”
12 medical need exists if the failure to treat a prisoner’s condition could lead to further injury or
13 the “unnecessary and wanton infliction of pain.” *Id.* (citing *Estelle*, 429 U.S. at 104). Examples
14 of conditions that are “serious” in nature include an injury that a reasonable doctor or patient
15 would find important and worthy of comment or treatment, a medical condition that
16 significantly affects an individual's daily activities, or the existence of chronic and substantial
17 pain. *McGuckin*, 974 F.2d at 1060; *see also Lopez v. Smith*, 203 F.3d 1122, 1131 (9th Cir.
18 2000).

19 If the medical needs are serious, the plaintiff must show that the defendants acted with
20 deliberate indifference to those needs. *Estelle*, 429 U.S. at 104. The plaintiff must demonstrate
21 that the prison medical staff knew of and disregarded an excessive risk to his health. *Farmer*
22 *v. Brennan*, 511 U.S. 825, 837 (1994). “Prison officials are deliberately indifferent to a
23 prisoner’s serious medical needs when they deny, delay, or intentionally interfere with medical
24 treatment” or the express orders of a prisoner’s prior physician for reasons unrelated to the
25 medical needs of the prisoner. *Hamilton v. Endell*, 981 F.2d 1062, 1066 (9th Cir. 1992); *Hunt*
26 *v. Dental Dep’t.*, 865 F.2d 198, 201 (9th Cir. 1989) (citations omitted). “Deliberate indifference
27 entails something more than mere negligence.” *Farmer*, 511 U.S. at 835-36. Instead, it is only
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1 present when a prison official “knows of and disregards an excessive risk” to an inmate’s health
2 and safety. *Clement v. Gomez*, 298 F.3d 898, 904 (9th Cir. 2003) (quoting *Farmer v.*
3 *Brennan*, 511 U.S. 825, 858 (1994)).

4 Defendant argues that Plaintiff fails to present evidence that his back injury constitutes
5 “a serious medical need.” The court agrees. Defendant points to the complete absence of
6 evidence demonstrating that Plaintiff had a serious medical need or that any CCDC employee
7 knew of and disregarded an excessive risk to the Plaintiff arising from that need. (Def.’s Mot.
8 for Summ. J 8.) None of Plaintiff’s grievances submitted at CCDC addresses his back injury or
9 problems arising from laying on the floor, a cot, or mattress, (*Id.* Ex. I) and Plaintiff’s medical
10 records demonstrate that he received pain medications at CCDC (*Id.* Ex. H). This evidence
11 directly controverts Plaintiff’s allegations.

12 Moreover, Plaintiff has not presented sufficient evidence to hold CCDC liable as a
13 municipality. Municipalities are “persons” under § 1983 and may be liable for causing a
14 constitutional deprivation. *Monell v. Dep’t. of Soc. Servs.*, 436 U.S. 658, 690 (1978). However,
15 a municipality may not be sued under § 1983 solely because an injury was inflicted by its
16 employees or agents. *Id.* at 694. “[I]t is only when execution of a government’s policy or
17 custom inflicts the injury that the municipality as an entity is responsible.” *Long v. County of*
18 *Los Angeles*, 442 F.3d 1178, 1185 (9th Cir. 2006). To impose liability against CCDC, a
19 municipality, for its failure to act, Plaintiff must show: (1) an employee of Defendant violated
20 Plaintiff’s constitutional rights; (2) Defendant has customs or policies that amount to deliberate
21 indifference; and (3) these customs or policies were the moving force behind the employee’s
22 violation of constitutional rights. *Id.* at 1186.

23 Defendant correctly points to Plaintiff’s failure to present any evidence that CCDC
24 maintained an unconstitutional policy, practice, custom, or scheme. (Def.’s Mot. for Summ.
25 J. 7.) Plaintiff merely relies on the allegations in his complaint and has not provided any other
26 evidence supporting municipal liability.

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1 Plaintiff has failed to provide any evidence supporting his claim that Defendants
2 subjected him to unconstitutional conditions of confinement. As the moving party, Defendant
3 CCDC has met its burden in putting forth evidence showing the absence of a genuine issue of
4 material fact. Because Plaintiff, as the non-movant, has failed to produce evidence as to
5 essential elements of his case, Defendant is entitled to summary judgment.

6 **IV. RECOMMENDATION**

7 **IT IS HEREBY RECOMMENDED** that the District Judge enter an Order
8 **GRANTING** Defendant's Motion for Summary Judgment (Doc. #31). The claims against John
9 Doe #1, Officer, John Doe #2, Nurse, and John Doe #3, Medical Dept. should be dismissed.

10 The parties should be aware of the following:

11 1. That they may file, pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the
12 Local Rules of Practice, specific written objections to this Report and Recommendation within
13 ten (10) days of receipt. These objections should be titled "Objections to Magistrate Judge's
14 Report and Recommendation" and should be accompanied by points and authorities for
15 consideration by the District Court.

16 2. That this Report and Recommendation is not an appealable order and that any
17 notice of appeal pursuant to Rule 4(a)(1), Fed. R. App. P., should not be filed until entry of the
18 District Court's judgment.

19 DATED: November 18, 2009.



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22 UNITED STATES MAGISTRATE JUDGE