

MAR 26 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT E. DICKERSON,

Plaintiff - Appellant,

v.

LIZ RANTZ, M.D. Medical Director,
Department of Corrections; et al.,

Defendants - Appellees,

and

MAJOR WOODS; et al.,

Defendants.

No. 06-35840

D.C. No. CV-04-00058-DWM

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Submitted March 18, 2008**

Before: CANBY, T. G. NELSON, and BEA, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Robert E. Dickerson, a Montana state prisoner, appeals pro se from the district court's summary judgment for defendants in his 42 U.S.C. § 1983 action, alleging defendants violated his Eighth Amendment right to adequate medical care by refusing to treat his Hepatitis C with drug therapy. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's summary judgment. *Sanchez v. Vild*, 891 F.2d 240, 241-42 (9th Cir. 1989). We affirm.

Dickerson contends that the district court should have reviewed the magistrate judge's findings and recommendation de novo, instead of for clear error. We need not resolve the issue because our de novo review concludes that there was no genuine issue of material fact as to whether the treatment chosen by prison officials was medically unacceptable. *See Sanchez*, 891 F.2d at 242 (holding that a difference of opinion about the best course of medical treatment was insufficient to raise a genuine issue).

The district court did not abuse its discretion by denying Dickerson's untimely request for an extension to conduct additional discovery. *See Kyle v. Campbell Soup Co.*, 28 F.3d 928, 930-32 (9th Cir. 1994) (stating that inadvertence, ignorance, or mistakes construing rules are not adequate excuses under Fed. R. Civ. P. 6(b)); *Nidds v. Schindler Elevator Corp.*, 113 F.3d 912, 913 (9th Cir. 1996)

(holding that a lack of diligence precludes an extension under Fed. R. Civ. P. 56(f)).

Dickerson's remaining contentions are unpersuasive.

AFFIRMED.