

JAN 14 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN LITTLE,

Plaintiff - Appellant,

v.

NIKKI BEHNER; et al.,

Defendants - Appellees.

No. 07-35441

D.C. No. CV-05-01220-RSL

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Robert S. Lasnik, District Judge, Presiding

Submitted December 17, 2008**

Before: GOODWIN, WALLACE, and RYMER, Circuit Judges.

John Little, a former Washington state inmate, appeals pro se from the district court's summary judgment in favor of defendants in his 42 U.S.C. § 1983

* 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).

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 (9th Cir. 2004), and we affirm.

The district court properly granted summary judgment because Little failed to raise a genuine issue of material fact as to whether Behner acted with deliberate indifference in denying Little's requests for medication. *See id.* at 1057 (explaining that the subjective component of deliberate indifference focuses only on the prison official's mental state, and that a prison official acts with deliberate indifference only if he or she knows of and disregards a substantial risk of serious harm to the inmate).

AFFIRMED.