

APR 27 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

WILLIE LEE JEFFERSON,

Plaintiff - Appellant,

v.

ART VOGHT; et al.,

Defendants - Appellees.

No. 08-15117

D.C. No. CV-04-00687-LRH/VPC

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Larry R. Hicks, District Judge, Presiding

Submitted April 13, 2008**

Before: GRABER, GOULD, and BEA, Circuit Judges.

Willie Lee Jefferson, a Nevada state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging that defendants violated the Eighth Amendment by failing to transfer him to a separate mental

* 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).

health institution or to establish a psychiatric hospital at the prison in which he was housed. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Sorrels v. McKee*, 290 F.3d 965, 969 (9th Cir. 2002), and we affirm.

The district court properly granted summary judgment because Jefferson failed to controvert the defendants' evidence that Jefferson's condition did not warrant his placement in a separate mental health institution. *See Hallett v. Morgan*, 296 F.3d 732, 748-49 (9th Cir. 2002) (finding that "[p]laintiffs have not established that prison officials are deliberately indifferent to the need to transfer mentally ill prisoners to facilities that may better accommodate their needs"); *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986) ("[In opposing summary judgment, the nonmoving party must] designate specific facts showing that there is a genuine issue for trial.").

Jefferson's remaining contentions are unpersuasive.

AFFIRMED.