

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

King v. Mayberg

334 F. App'x 802 (9th Cir. 2009) · Decided May 26, 2009

SUMMARY

The Ninth Circuit affirmed summary judgment for defendants in a 42 U.S.C. § 1983 action brought by a former civil detainee alleging denial of medical care in violation of the Fourteenth Amendment. The court held that the plaintiff failed to show that the treatment decisions constituted a substantial departure from accepted professional medical judgment or that insulin was medically required.

OPINION

PER CURIAM.

MEMORANDUM ** William King, a former civil detainee at Atascadero State Hospital, appeals pro se from the district court's summary judgment for defendants in his 42 U.S.C. § 1983 action alleging that he was denied medical care in violation of the Due Process Clause of the Fourteenth Amendment.

We have jurisdiction under 28 U.S.C. § 1291. We review de novo a grant of summary judgment. *Aguilera v. Baca*, 510 F.3d 1161, 1167 (9th Cir.2007). We affirm. The district court properly granted summary judgment on King's claims that *804defendants denied him care for gastroesophageal reflux disease and rectal bleeding because King failed to demonstrate a triable issue as to whether the treatment he received constituted a "substantial departure from accepted professional judgment." *Youngberg v. Romeo*, 457 U.S. 307, 323, 102 S.Ct.

2452, 73 L.Ed.2d 28 (1982). The district court properly granted summary judgment on King's claim that defendants denied him chemotherapy for bone marrow cancer because, as the district court found, it was not a substantial departure from professional medical judgment to fail to treat a patient for an undiagnosed disease.

The district court properly granted summary judgment on King's claim that Dr. Shelton denied him insulin to address his high blood glucose level because King offered no medical evidence controverting Dr. Shelton's statements that insulin was not required. See *Franklin v. Or., State Welfare Div.*, 662 F.2d 1337, 1344 (9th Cir.1981) ("A difference of opinion between a prisoner-patient and prison medical authorities regarding treatment does not give rise to a § 1983 claim.").

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

