

JUL 27 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JONATHAN W. GRIGSBY,

Plaintiff - Appellant,

v.

ROBERT A. HOREL, Warden; et al.,

Defendants - Appellees.

No. 08-16163

D.C. No. 3:07-cv-02833-CRB

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, District Judge, Presiding

Submitted July 14, 2009**

Before: SCHROEDER, THOMAS, and WARDLAW, Circuit Judges.

Jonathan W. Grigsby, a California state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging that defendants improperly opened and read his mail. We have jurisdiction under 28

* 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).

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 on the First Amendment claim based on defendants' alleged opening and reading of Grigsby's mail because the mailings were not addressed to or from a particular attorney, *see Wolff v. McDonnell*, 418 U.S. 539, 576 (1974) (stating that legal mail must "be specially marked as originating from an attorney, with his name and address being given, if [it is] to receive special treatment"), and many were to or from public agencies, *see O'Keefe v. Van Boening*, 82 F.3d 322, 325-27 (9th Cir. 1996) (holding that mailings to state agencies do not qualify as legal mail).

The district court properly granted summary judgment on the access to courts claim because Grigsby failed to raise a genuine issue of material fact as to whether defendants frustrated or impeded a nonfrivolous legal claim. *See Lewis v. Casey*, 518 U.S. 343, 351-53 (1996).

Grigsby's remaining contentions are unpersuasive.

AFFIRMED.