

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

FEB 22 2010

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

SYLVESTER JAMES MAHONE,

Plaintiff - Appellant,

v.

WASHINGTON STATE  
REFORMATORY,

Defendant,

and

CAROL GRANDMONTAGNE,  
Corrections Captain for the Washington  
State Reformatory; et al.,

Defendants - Appellees.

No. 09-35113

D.C. No. 2:07-cv-00499-JLR

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
James L. Robart, District Judge, Presiding

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

Submitted February 16, 2010\*\*

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges,

Sylvester James Mahone, a Washington state prisoner, appeals pro se from the district court's summary judgment in favor of defendants in his 42 U.S.C. § 1983 action alleging violations of his First and Fourteenth Amendment rights. 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 on Mahone's access to courts claim because Mahone failed to raise a genuine issue of material fact as to whether legal mail rules frustrated his ability to pursue a non-frivolous legal claim. *See Lewis v. Casey*, 578 U.S. 343, 352-53 (1996).

The district court properly granted summary judgment on Mahone's retaliation claim because Mahone failed to raise a genuine issue of material fact as to whether the allegedly retaliatory conduct was unrelated to legitimate penological goals. *See Barnett v. Centoni*, 31 F.3d 813, 815-16 (9th Cir. 1994) (per curiam).

Mahone's remaining contentions are not persuasive.

**AFFIRMED.**

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