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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DESHAWN MALONE,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p style="text-align: center;">v.</p> <p>MARTINEZ, Correctional Officer,</p> <p style="text-align: center;">Defendant - Appellee.</p>
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No. 07-16587

D.C. No.  
2:03-cv-00363-FCD-KJM

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Frank C. Damrell, Jr., District Judge, Presiding

Submitted April 5, 2010\*\*

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

Deshawn Malone, a California state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging that defendant violated his right of access to courts. We have jurisdiction under 28 U.S.C.

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

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

§ 1291. We review de novo, *Jones v. Blanas*, 393 F.3d 918, 926 (9th Cir. 2004), and we affirm.

Malone claimed that defendant failed to give him a partially completed complaint and supporting materials that Malone had requested from his personal property. The district court properly granted summary judgment because Malone failed to raise a triable issue as to whether he suffered an actual injury as a result of defendant's alleged conduct. *See Lewis v. Casey*, 518 U.S. 343, 351-53 (1996) (describing actual injury requirement); *Jones*, 393 F.3d at 936 (affirming summary judgment on access to courts claim on the ground that plaintiff did not show "injury, such as inability to file a complaint or defend against a charge").

Malone's remaining contentions are unpersuasive.

**AFFIRMED.**