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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DEVONTE BERNARD HARRIS,

Plaintiff - Appellant,

v.

MIKE GARDNER; et al.,

Defendants - Appellees.

No. 10-17809

D.C. No. 3:09-cv-04037-RS

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Richard Seeborg, District Judge, Presiding

Submitted February 21, 2012\*\*

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

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

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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).

U.S.C. § 1291. We review summary judgment de novo, *Little v. City of Seattle*, 863 F.2d 681, 682 (9th Cir. 1988), and we affirm.

The district court properly granted summary judgment because Harris failed to raise a genuine dispute of material fact as to whether he suffered an actual injury as a result of the correctional officers not shutting the office door while he was talking to his attorney on the phone. *See Lewis v. Casey*, 518 U.S. 343, 348-53 (1996) (access-to-courts claim requires plaintiff to show that defendants' conduct caused actual injury to a non-frivolous legal claim); *Cafasso, U.S. ex rel. v. Gen. Dynamics C4 Sys., Inc.*, 637 F.3d 1047, 1061 (9th Cir. 2011) ("To survive summary judgment, a plaintiff must set forth non-speculative evidence of specific facts, not sweeping conclusory allegations.").

The district court did not abuse its discretion by granting defendants' motion to stay discovery. *See Little*, 863 F.2d at 685 (district court did not abuse its discretion by staying discovery until the issue of immunity was decided because discovery could not have affected summary judgment).

Harris's remaining contentions are unpersuasive.

**AFFIRMED.**