

MAR 3 2014

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>DAVID B. JOHNSON,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>R. J. SUBIA, Acting Warden, Mule Creek State Prison; et al.,</p> <p>Defendants - Appellees.</p>
---

No. 11-15020

D.C. No. 2:07-cv-02002-PMP-  
GWF

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Philip M. Pro, District Judge, Presiding

Submitted February 18, 2014\*\*

Before: ALARCÓN, O’SANNLAIN, and FERNANDEZ, Circuit Judges.

California state prisoner David B. Johnson appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action alleging that prison officials retaliated against him for filing prison grievances. We review de novo the

---

\* 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).

district court's dismissal for failure to exhaust administrative remedies under the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a), and for clear error its factual determinations. *Wyatt v. Terhune*, 315 F.3d 1108, 1117 (9th Cir. 2003). We affirm.

The district court properly dismissed Johnson's retaliation claims concerning an alleged false disciplinary charge and the destruction of his inmate grievance because Johnson failed to exhaust his administrative remedies. *See Woodford v. Ngo*, 548 U.S. 81, 85, 93-95 (2006) (holding that "proper exhaustion" is mandatory and requires adherence to administrative procedural rules).

Johnson's contentions concerning the district court's alleged denial of his due process and equal protection rights are unpersuasive.

Johnson's request to stop deducting funds from his prison account for the filing fees in this and other unrelated actions, set forth in his letter submitted on July 13, 2012, is denied.

**AFFIRMED.**