

DEC 4 2014

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>VANCE EDWARD JOHNSON,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p>v.</p> <p>R. JANZEN, Lt.,</p> <p style="text-align: center;">Defendant - Appellee.</p>
--

No. 13-16922

D.C. No. 2:10-cv-02522-WBS-KJN

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, District Judge, Presiding

Submitted November 18, 2014**

Before: LEAVY, FISHER, and N.R. SMITH, Circuit Judges.

Vance Edward Johnson, a California state prisoner, appeals pro se from the district court’s summary judgment in his 42 U.S.C. § 1983 action alleging an access-to-courts claim. We have jurisdiction under 28 U.S.C. § 1291. We review de novo cross motions for summary judgment, *Guatay Christian Fellowship v.*

* 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).

County of San Diego, 670 F.3d 957, 970 (9th Cir. 2011), and we affirm.

The district court properly granted summary judgment for defendant because Johnson failed to raise a genuine dispute of material fact as to whether defendant caused an actual injury to a non-frivolous claim. *See Christopher v. Harbury*, 536 U.S. 403, 414 (2002) (“The official acts claimed to have denied access [to the courts]” must have “caused the loss [] of a meritorious case.”); *Lewis v. Casey*, 518 U.S. 343, 348-53 (1996) (setting forth the elements of an access-to-courts claim). Moreover, summary judgment for defendant was proper even taking into account the full eight days preceding Johnson’s deadline for filing a petition for writ of certiorari in his habeas proceeding.

AFFIRMED.