

MAR 20 2015

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>IVAN KILGORE,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>ARNO NAPPI, Senior Librarian; et al.,</p> <p>Defendants - Appellees.</p>
--

No. 14-15711

D.C. No. 2:11-cv-01822-WBS-KJN

MEMORANDUM\*

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

Submitted March 10, 2015\*\*

Before: FARRIS, WARDLAW, and PAEZ, Circuit Judges.

Ivan Kilgore, a California state prisoner, appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action alleging denial of access to the courts. We have jurisdiction under 28 U.S.C. § 1291. We review de novo

---

\* 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).

dismissal under 28 U.S.C. § 1915A. *Wilhelm v. Rotman*, 680 F.3d 1113, 1118 (9th Cir. 2012). We affirm.

The district court properly dismissed Kilgore’s action because Kilgore failed to allege facts sufficient to show that he suffered an actual injury as a result of defendants’ conduct. *See Lewis v. Casey*, 518 U.S. 343, 348-53 (1996) (access-to-courts claim requires the plaintiff to show that the defendants’ conduct caused actual injury to a non-frivolous legal claim); *see also Silva v. DiVittorio*, 658 F.3d 1090, 1101-04 (9th Cir. 2011) (discussing “affirmative assistance” and “interference” access-to-courts claims).

The district court did not abuse its discretion by denying leave to amend the second amended complaint because further amendment would have been futile. *See Manzarek v. St. Paul Fire & Marine Ins. Co.*, 519 F.3d 1025, 1031 (9th Cir. 2008) (setting forth standard of review and explaining that denial of leave to amend is improper unless it is clear that the complaint could not be saved by amendment); *see also Metzler Inv. GMBH v. Corinthian Colls., Inc.*, 540 F.3d 1049, 1072 (9th Cir. 2008) (a district court’s discretion to deny leave to amend is particularly broad where plaintiff has previously amended).

Appellees’ motion to take judicial notice, filed September 12, 2014, is granted.

Kilgore's "Motion Requesting Order Directing Clerk of the District Court to Produce Record of Proceedings," filed December 31, 2014, is denied as unnecessary.

**AFFIRMED.**