

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAY 03 2016

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

JOHN SHAW, AKA John Hsia,

Plaintiff - Appellant,

v.

ANDRE CHANG, Officer,

Defendant - Appellee.

No. 15-15173

D.C. No. 3:13-cv-02532-NC

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Nathanael M. Cousins, Magistrate Judge, Presiding**

Submitted April 26, 2016***

Before: McKEOWN, WARDLAW and PAEZ, Circuit Judges

John Shaw a.k.a John Hsia, a former California state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging

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

** The parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

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

that he was denied access to the courts while he was incarcerated. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's summary judgment. *Tatum v. City & County of San Francisco*, 441 F.3d 1090, 1094 n.3 (9th Cir. 2006). We affirm.

The district court properly granted summary judgment because Shaw failed to raise a genuine dispute of material fact as to whether defendant's actions caused the dismissal of Shaw's federal habeas action or otherwise impaired Shaw's ability to pursue federal habeas relief. *See Lewis v. Casey*, 518 U.S. 343, 349-53 (1996) (access-to-courts claim requires showing that the defendant's conduct caused actual injury to a non-frivolous legal claim).

Because we affirm on the merits, we do not reach the district court's alternate basis for granting summary judgment that Shaw did not exhaust his administrative remedies.

We do not consider arguments raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

Shaw's pending motions and requests are denied.

AFFIRMED.