

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 31 2017

FOR THE NINTH CIRCUIT

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

JESS R. SMITH,

Plaintiff-Appellant,

v.

B. GRONSETH, CBCC Law Librarian; et  
al.,

Defendants-Appellees.

No. 17-35156

D.C. No. 3:16-cv-05775-BHS-  
DWC

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
Benjamin H. Settle, District Judge, Presiding

Submitted May 24, 2017\*\*

Before: THOMAS, Chief Judge, and SILVERMAN and RAWLINSON,  
Circuit Judges.

Washington state prisoner Jess R. Smith appeals pro se from the district court's order denying his motion for a temporary restraining order and preliminary injunction. We have jurisdiction under 28 U.S.C. § 1292(a). We review for an

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

abuse of discretion, *Am. Hotel & Lodging Ass'n v. City of Los Angeles*, 834 F.3d 958, 962 (9th Cir. 2016), and we affirm.

The district court did not abuse its discretion by denying Smith's motion for mandatory preliminary injunctive relief because Smith failed to establish that he is likely to succeed on the merits of his claims and that absent such relief he is likely to suffer irreparable harm. *See Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008) (setting forth standards for issuance of preliminary injunction); *Park Vill. Apartment Tenants Ass'n v. Mortimer Howard Trust*, 636 F.3d 1150, 1160 (9th Cir. 2011) (stating that mandatory injunctions are not generally granted unless "extreme or very serious damage will result" (citation and internal quotation marks omitted)); *see also Lewis v. Casey*, 518 U.S. 343, 348-49, 352-54 (1996) (setting forth elements of an access-to-courts claim and actual injury requirement).

The district court properly determined that Smith's allegations regarding the denial of access to legal supplies and to his legal materials are outside the scope of his motion for preliminary injunctive relief.

**AFFIRMED.**