

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 25 2019

FOR THE NINTH CIRCUIT

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

EARNEST S. HARRIS,

Plaintiff-Appellant,

v.

E. McCUMSEY, Ms.; Senior Librarian, The  
Law Library, Pelican Bay State Prison,

Defendant-Appellee.

No. 18-15422

D.C. No. 3:16-cv-01487-JST

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Jon S. Tigar, District Judge, Presiding

Submitted February 19, 2019\*\*

Before: FERNANDEZ, SILVERMAN, and WATFORD, Circuit Judges.

California state prisoner Earnest S. Harris 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. *Brodheim v. Cry*, 584 F.3d 1262, 1267 (9th Cir. 2009). We affirm.

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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).

The district court properly granted summary judgment because Harris failed to raise a genuine dispute of material fact as to whether he suffered an actual injury as a result of defendant's conduct. *See Lewis v. Casey*, 518 U.S. 343, 353-54 (1996) (setting forth elements of access-to-courts claim and actual injury requirement).

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).

**AFFIRMED.**