

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 20 2022

FOR THE NINTH CIRCUIT

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

RAFAEL SALAS,

No. 21-16013

Plaintiff-Appellant,

D.C. No. 4:17-cv-04828-JST

v.

MEMORANDUM*

CARRAWAY, Correctional Officer; LACY,
Correctional Sgt.; HENRY NICHOLS,
Correctional Officer,

Defendants-Appellees.

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

Submitted July 12, 2022**

Before: SCHROEDER, R. NELSON, and VANDYKE, Circuit Judges.

California state prisoner Rafael Salas appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging retaliation claims. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Toguchi v. Chung*,

* 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).

391 F.3d 1051, 1056 (9th Cir. 2004). We affirm.

The district court properly granted summary judgment because Salas failed to raise a genuine dispute of material fact as to whether defendant's search of his cell was motivated by a retaliatory animus. *See Rhodes v. Robinson*, 408 F.3d 559, 567-68 (9th Cir. 2005) (elements of a First Amendment retaliation claim in the prison context); *see also Wood v. Yordy*, 753 F.3d 899, 905 (9th Cir. 2014) (“[M]ere speculation that defendants acted out of retaliation is not sufficient.”).

Salas's motion for appointment of counsel (Docket Entry No. 16) and his motion for preliminary injunction (Docket Entry No. 18) are denied.

AFFIRMED.