

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 30 2024

FOR THE NINTH CIRCUIT

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

Theron Kenneth Holston,

Plaintiff-Appellant,

v.

G Viera Rosa; Jeffrey Green,

Defendants-Appellees.

No. 22-17028

D.C. No. 2:20-cv-01076-KJM-CKD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Kimberly J. Mueller, District Judge, Presiding

Submitted April 22, 2024**

Before: CALLAHAN, LEE, and FORREST, Circuit Judges.

Theron Kenneth Holston appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action challenging special conditions of parole. We have jurisdiction under 28 U.S.C. § 1291. We review de novo cross-motions for summary judgment. *Hamby v. Hammond*, 821 F.3d 1085, 1090 (9th Cir.

* 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).

2016). We affirm.

The district court properly granted summary judgment for defendant Rosa on Holston's claims challenging his 2019 parole conditions because Holston failed to raise a genuine dispute of material fact as to whether his challenge to certain conditions was not moot or whether the operative parole conditions were unreasonable. *See United States v. Juvenile Male*, 670 F.3d 999, 1012 (9th Cir. 2012) (explaining substantive due process analysis); *Bernhardt v. County of Los Angeles*, 279 F.3d 862, 871 (9th Cir. 2002) ("An actual controversy must be extant at all stages of review, not merely at the time the complaint is filed.").

The district court did not abuse its discretion in denying Holston's request for additional leave to amend because Holston did not demonstrate good cause for seeking amendment after the deadline. *See Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607-10 (9th Cir. 1992) (setting forth standard of review and explaining that a party must show "good cause" to amend a pleading after a date specified in a scheduling order).

Rosa's motion for judicial notice (Docket Entry No. 17) is denied as unnecessary. Holston's request for appointment of counsel, set forth in the opening brief, is denied.

AFFIRMED.