

DEC 28 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MICHAEL A. SAAVEDRA,

Plaintiff - Appellant,

v.

ANTHONY LAMARQUE, Warden;
et al.,

Defendants - Appellees.

No. 06-16391

D.C. No. CV-05-04445-CRB

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, District Judge, Presiding

Submitted December 3, 2007**

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges

Michael Saavedra, a California state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging denial of access to the courts and retaliation for the exercise of his First Amendment rights.

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

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

We have jurisdiction pursuant to 28 U.S.C. § 1291. We may affirm the decision of the district court for any reason supported by the record. *See Branson v. Nott*, 62 F.3d 287, 291 (9th Cir. 1994). We review de novo the dismissal of a prisoner's complaint pursuant to 28 U.S.C. § 1915A, *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000), and we affirm.

The district court properly dismissed Saavedra's claim for denial of access to the courts because Saavedra's complaint failed to allege that defendants hindered his efforts to pursue a nonfrivolous legal claim in the U. S. Supreme Court. *See Phillips v. Hust*, 477 F.3d 1070, 1076 (9th Cir. 2007) (setting forth requisite elements for denial of access to the courts claim).

Although Saavedra had exhausted his administrative remedies, the district court did not err in dismissing Saavedra's First Amendment retaliation claim because Saavedra failed to allege that defendants' actions were based upon a retaliatory motive rather than a legitimate correctional goal. *See Rhodes v. Robinson*, 408 F.3d 559, 567 (9th Cir. 2005) (indicating elements of First Amendment retaliation claim are not satisfied when there is a legitimate correctional goal for action taken). Saavedra's allegations, as well as exhibits attached to the complaint, state that the prison was placed on a "lockdown" and that law library access was curtailed during the time period at issue. *See Rizzo v.*

Dawson, 778 F.2d 527, 532 n.4 (9th Cir. 1985) (“Dismissal [of a retaliation claim] may have been warranted if there was no factual support for the allegations or the factual support was contradicted by facts that the court could notice or that were apparent in the record.”).

The district court did not abuse its discretion by denying Saavedra leave to amend his complaint because an amendment in this case would have been futile.

See Lopez v. Smith, 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc).

AFFIRMED.