

OCT 07 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RAYMOND D. JACKSON, SR.,

Plaintiff - Appellant,

v.

J. WOODFORD; et al.,

Defendants - Appellees.

No. 07-16861

D.C. No. CV-05-01822-GEB/JFM

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Garland E. Burrell, Jr., District Judge, Presiding

Submitted September 14, 2009**

Before: SILVERMAN, RAWLINSON, and CLIFTON, Circuit Judges.

California state prisoner Raymond D. Jackson, Sr. appeals pro se from the district court's summary judgment dismissing his 42 U.S.C. § 1983 action alleging, inter alia, that defendants denied him access to the courts. We have jurisdiction

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

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

under 28 U.S.C. § 1291. We review de novo. *Aguilera v. Baca*, 510 F.3d 1161, 1167 (9th Cir. 2007). We affirm in part, vacate in part, and remand.

The district court properly granted summary judgment on Jackson's access to courts claim because Jackson failed to raise a triable issue that he suffered "actual prejudice with respect to contemplated or existing litigation, such as the inability to meet a filing deadline or to present a claim." *Lewis v. Casey*, 518 U.S. 343, 348 (1996).

Jackson's remaining contentions are unpersuasive.

Jackson's motion to correct a "clerical error" in his reply brief is granted.

We grant in part Jackson's motion for judicial notice filed on Dec 12, 2008, and take judicial notice of the order denying a certificate of appealability filed on May 29, 2008. All other pending motions are denied.

We vacate in part and remand for the limited purpose of directing that the district court dismiss the pendent state claims without prejudice. *See Wade v. Reg'l Credit Ass'n*, 87 F.3d 1098, 1101 (9th Cir. 1996).

Each party shall bear its own costs on appeal.

AFFIRMED in part, VACATED in part, and REMANDED.