

OCT 09 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ANDRIAN SHERMAN,

Plaintiff - Appellant,

v.

KUSHNER, Unit Manager at Eloy
Detention Center; et al.,

Defendants - Appellees.

No. 08-17560

D.C. No. 2:07-cv-00874-SRB-JRI

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Susan R. Bolton, District Judge, Presiding

Submitted September 14, 2009**

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

Andrian Sherman, a Washington state prisoner, appeals pro se from the district court's summary judgment for defendants in his 42 U.S.C. § 1983 action

* 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).

alleging that prison officials impeded his access to the courts. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo the grant of summary judgment, *Oliver v. Keller*, 289 F.3d 623, 626 (9th Cir. 2002), and review for an abuse of discretion the denial of a request for a modification of a scheduling order, *Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002). We affirm.

The district court properly granted summary judgment because Sherman failed to demonstrate that he suffered an actual injury as a result of defendants' alleged conduct. *See Lewis v. Casey*, 518 U.S. 343, 348 (1996) (explaining that a prisoner must show that he suffered actual prejudice with respect to contemplated or existing litigation in order to establish a violation of the right of access to the courts); *Alvarez v. Hill*, 518 F.3d 1152, 1155 n.1 (9th Cir. 2008) (holding that an inmate's failure to show that a non frivolous legal claim has been frustrated is fatal to his access-to-courts claim).

The district court did not abuse its discretion by denying Sherman's motion to extend the deadline for responding to defendants' motions because Sherman failed to show good cause for the extension. *See Zivkovic*, 302 F.3d at 1087.

Sherman's remaining contentions are unpersuasive.

AFFIRMED.