

FEB 28 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DARNELL OTIS MCGARY,

Plaintiff - Appellant,

v.

KELLY CUNNINGHAM, Superintendent;  
et al.,

Defendants - Appellees.

No. 13-35882

D.C. No. 3:13-cv-05130-RBL-JRC

MEMORANDUM\*

Appeal from the United States District Court  
for the Western District of Washington  
Ronald B. Leighton, District Judge, Presiding

Submitted February 19, 2014\*\*

Before: LEAVY, TASHIMA and GRABER, Circuit Judges.

Darnell Otis McGary appeals pro se the district court's denial of his request for preliminary injunctive relief against defendant prison officials. We have jurisdiction under 28 U.S.C. § 1292(a)(1), and we affirm.

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

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

Our sole inquiry is whether the district court abused its discretion in denying preliminary injunctive relief, and we conclude the district court did not abuse its discretion. *Winter v. Natural Res. Def. Council Inc.*, 555 U.S. 7, 24 (2008) (listing factors for district court to consider); *Sports Form, Inc. v. United Press Int'l*, 686 F.2d 750, 752-53 (9th Cir. 1982) (explaining limited scope of review).<sup>1</sup>

**AFFIRMED.**

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<sup>1</sup>Appellees' request to stay this appeal pending the outcome of McGary's criminal charges is denied.