

APR 19 2016

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KALE VORAK,

Plaintiff - Appellant,

v.

JOHN SERVATIUS, individually;
CHUCK PRATHER, Individually, AKA
Charles Prather, AKA Charles E. Prather,

Defendants - Appellees.

No. 14-36112

D.C. No. 2:13-cv-00335-SMJ

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Salvador Mendoza, Jr., District Judge, Presiding

Submitted April 13, 2016**

Before: FARRIS, TALLMAN, and BYBEE, Circuit Judges.

Washington state prisoner Kale Vorak appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging a First Amendment retaliation claim arising out of the filing of prison grievances. We

* 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).

have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Brodheim v. Cry*, 584 F.3d 1262, 1267 (9th Cir. 2009). We affirm.

The district court properly granted summary judgment because Vorak failed to raise a genuine dispute of material fact as to whether defendants acted with a retaliatory motive or whether there was an absence of legitimate correctional goals for defendants' conduct. *See id.* at 1269 (setting forth the elements of a retaliation claim in the prison context); *Wood v. Yordy*, 753 F.3d 899, 905 (9th Cir. 2014) (“[M]ere speculation that defendants acted out of retaliation is not sufficient.”); *Pratt v. Rowland*, 65 F.3d 802, 806-07 (9th Cir. 1995) (explaining that it is the plaintiff's burden to prove the absence of a legitimate correctional goal and that courts “should afford appropriate deference and flexibility to prison officials” when evaluating proffered legitimate goals (citation and internal quotation marks omitted)).

AFFIRMED.