

FEB 19 2013

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ROBERT J. BARDO,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>M. LOCKHART; et al.,</p> <p>Defendants - Appellees.</p>
--

No. 12-16121

D.C. No. 2:09-cv-03479-GEB-  
EFB

MEMORANDUM\*

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

Submitted February 11, 2013\*\*

Before: FERNANDEZ, TASHIMA, and WARDLAW, Circuit Judges.

California state prisoner Robert J. Bardo appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging that defendants violated his First Amendment rights by confiscating photographs of and materials

---

\* 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).

referencing the actress that Bardo stalked and killed. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Morrison v. Hall*, 261 F.3d 896, 900 (9th Cir. 2001). We affirm.

The district court properly granted summary judgment on Bardo's retaliation claim because Bardo failed to raise a genuine dispute of material fact as to whether defendants took any adverse action in retaliation for his legal filings, or whether their actions did not reasonably advance legitimate penological interests. *See Rhodes v. Robinson*, 408 F.3d 559, 567-68 (9th Cir. 2005) (explaining the elements of a retaliation claim under § 1983).

The district court properly granted summary judgment on Bardo's claim challenging the California prison regulation justifying the confiscation because Bardo failed to raise a genuine dispute of material fact as to whether the regulation is not reasonably related to legitimate penological interests. *See Turner v. Safley*, 482 U.S. 78, 89 (1987) (“[W]hen a prison regulation impinges on inmates’ constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests.”).

**AFFIRMED.**