

SEP 25 2015

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U.S. COURT OF APPEALS

## NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CHARLES A. ROGERS,

Plaintiff - Appellant,

v.

N. EMERSON; K. W. GOSS,

Defendants - Appellees.

No. 14-16490

D.C. No. 1:12-cv-01827-AWI-  
DLB

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Anthony W. Ishii, District Judge, Presiding

Submitted September 21, 2015\*\*

Before: REINHARDT, LEAVY, and BERZON, Circuit Judges.

California state prisoner Charles A. Rogers appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging retaliation in violation of the First Amendment against defendant Emerson and negligence against defendant Goss. We have jurisdiction under 28 U.S.C. § 1291. We review

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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).

de novo the district court's ruling on cross-motions for summary judgment, *Guatay Christian Fellowship v. County of San Diego*, 670 F.3d 957, 970 (9th Cir. 2011), and we affirm.

The district court properly granted summary judgment on Rogers's First Amendment retaliation claim because Rogers failed to raise a genuine dispute of material fact as to whether Emerson retaliated against him for filing a grievance. *See Brodheim v. Cry*, 584 F.3d 1262, 1271 (9th Cir. 2009) (“[A] plaintiff must show that his protected conduct was the ‘substantial’ or ‘motivating’ factor behind the defendant’s conduct.” (citation and internal quotation marks omitted)).

The district court properly granted summary judgment on Rogers's negligence claim because Rogers failed to raise a triable dispute as to whether Goss was negligent in handling the allegations of harassment and retaliation. *See Corales v. Bennett*, 567 F.3d 554, 572 (9th Cir. 2009) (outlining elements of negligence claim under California law).

**AFFIRMED.**