

AUG 26 2016

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U.S. COURT OF APPEALS

## NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MICHAEL ANGELO LENA,

Plaintiff-Appellant,

v.

C. DAVIS, Law Librarian; et al.,

Defendants-Appellees.

No. 15-16553

D.C. No. 2:14-cv-01121-JAM-  
CKD

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
John A. Mendez, District Judge, Presiding

Submitted August 16, 2016\*\*

Before: O'SCANNLAIN, LEAVY, and CLIFTON, Circuit Judges.

California state prisoner Michael Angelo Lena appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging an access-to-courts claim. We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Fed. R. Civ. P. 12(b)(6). *Hebbe v. Pliler*, 627 F.3d 338,

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

341 (9th Cir. 2010). We affirm.

The district court properly dismissed Lena’s action because Lena failed to allege facts sufficient to show that defendants hindered his efforts to pursue his legal claim. *See Lewis v. Casey*, 518 U.S. 343, 348-349, 351 (1996) (to state an access-to-courts claim, a prisoner must show “actual injury,” or that the alleged deprivations “hindered his efforts to pursue a legal claim”).

The district court did not abuse its discretion in dismissing Lena’s complaint without leave to amend because amendment would have been futile. *See Cervantes v. Countrywide Home Loans, Inc.*, 656 F.3d 1034, 1041 (9th Cir. 2011) (setting forth standard of review and explaining that dismissal without leave to amend is proper when amendment would be futile).

We do not consider arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

We reject as unsupported by the record Lena’s contentions regarding defendants’ alleged default.

All pending motions are denied.

**AFFIRMED.**