

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 23 2023

FOR THE NINTH CIRCUIT

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

CLARENCE LEONARD HEARNS, Jr.,

No. 22-15138

Plaintiff-Appellant,

D.C. No.1:20-cv-00313-JLT-BAK

v.

MEMORANDUM*

ANDREW WHISNAND; J BARBA; S
FLEMING,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of California
Jennifer L. Thurston, District Judge, Presiding

Submitted February 14, 2023**

Before: FERNANDEZ, FRIEDLAND, and H.A. THOMAS, Circuit Judges.

California state prisoner Clarence Leonard Hearns, Jr., appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging claims for the denial of access to the courts and interference with mail. We review de novo a district court's dismissal under 28 U.S.C. § 1915A. *Resnick v. Hayes*,

* 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).

213 F.3d 443, 447 (9th Cir. 2000). We affirm.

The district court properly dismissed Hearn's action because Hearn failed to allege facts sufficient to allege a plausible claim. *See Hebbe v. Pliler*, 627 F.3d 338, 341-42 (9th Cir. 2010) (noting that although pro se pleadings are to be construed liberally, a plaintiff must present factual allegations sufficient to state a plausible claim for relief); *see also Lewis v. Casey*, 518 U.S. 343, 349-54 (1996) (setting forth the elements of an access-to-courts claim and explaining that the right to access the courts does not include the right "to litigate effectively once in court" (emphasis omitted)); *Garnier v. O'Connor-Ratcliff*, 41 F.4th 1158, 1169 (9th Cir. 2022) (explaining a plaintiff in a § 1983 action must show that a state actor caused them a specific constitutional injury).

Hearn's motion for the case to be assigned to a panel (Docket Entry No. 7) is denied as moot.

AFFIRMED.