

1 denial, did not allow plaintiff to make “copies of documents needed to show what was done by
2 the complaint.” (ECF No. 35 at 2.) In addition to money damages, plaintiff seeks a declaratory
3 judgment stating that Chapman denied plaintiff’s grievances.

4 First, plaintiff failed to identify the individuals named as defendants in the caption of the
5 complaint. Fed. R. Civ. P. 10(a). Although it appears that plaintiff now names Davis and
6 Chapman as defendants, plaintiff’s pleading must make clear who he is naming as a defendant in
7 the pleading.

8 Second, despite multiple opportunities to amend, plaintiff has again failed to state a
9 cognizable access to the courts claim in violation of the First Amendment. The amended
10 pleading does not identify any cognizable injury plaintiff suffered as a result of defendants
11 alleged refusal to copy documents. Because actual injury is a jurisdictional requirement that may
12 not be waived, an actual injury must be alleged in order to state a claim for relief. Nevada Dept.
13 of Corr. v. Greene, 648 F.3d 1014, 1018 (9th Cir. 2011); see, e.g., Jenkins v. McMickens, 618 F.
14 Supp. 1472, 1474-75 (S.D. N.Y. 1985) (complaint alleging certain documents pertaining to
15 pending trial were confiscated and not returned is too conclusory to support a claim of denial of
16 access to court).

17 Moreover, plaintiff fails to demonstrate the alleged failure to provide photocopies
18 interfered with his access to the courts. Rather, plaintiff claims he needed the photocopies to
19 “substantiate his claim to the proper government department.” (ECF No. 35 at 2.) In addition, in
20 his appeal HDSP-B-14-01853, plaintiff stated he was exercising his right to file a formal citizen
21 complaint, requested documents necessary to advance his civil litigation in his complaint to the
22 State Bar of California, and the documents were needed to be sent to the State Bar of California,
23 Audit and Review Unit. (ECF No. 35 at 20, 24.) Plaintiff requested to have 765 pages
24 photocopied for the State Bar. (Id. at 20, 21, 23, 24.) The exhibits provided by plaintiff
25 demonstrate that his underlying complaint to the State Bar was denied, but that plaintiff could
26 request the State Bar’s Audit & Review Unit to review the complaint. (Id. at 26.) Any inability
27 to file a citizen’s complaint or to file documents with the State Bar does not fall within the
28 purview of claims covered by plaintiff’s constitutional right of access to the courts. The right of

1 access protects only the right to file direct criminal appeals, habeas petitions, and civil rights
2 actions. See Lewis, 518 U.S. at 354-55. Having failed to meet these requirements, any right of
3 access claim under the First Amendment must be dismissed.

4 Plaintiff was first advised of these requirements in the court's initial screening order
5 issued on April 29, 2015. (ECF No. 23 at 5.) Plaintiff was reminded of the actual injury
6 requirement in the November 7, 2016 screening order. (ECF No. 31 at 3.) Plaintiff's second
7 amended complaint makes no reference to an actual injury to court access to file any document in
8 a court of law. The exhibits provided with plaintiff's amended pleading confirm that plaintiff
9 sought the photocopies for filing with the State Bar or in connection with his citizen's complaint,
10 which does not constitute an actual injury under Lewis. Thus, it would be futile to again grant
11 plaintiff leave to amend his access to the courts claim.

12 Third, plaintiff's allegation that defendant Chapman denied plaintiff's administrative
13 appeal or kept him from filing a third level appeal fail to state a cognizable due process claim.
14 Plaintiff cannot state a due process claim based on defendants' role in the inmate appeal process.

15 The Due Process Clause protects plaintiff against the deprivation of liberty without the
16 procedural protections to which he is entitled under the law. Wilkinson v. Austin, 545 U.S. 209,
17 221 (2005). However, plaintiff has no stand-alone due process rights related to the administrative
18 grievance process. Ramirez v. Galaza, 334 F.3d 850, 860 (9th Cir. 2003); Mann v. Adams, 855
19 F.2d 639, 640 (9th Cir. 1988). A prison official's denial of a grievance does not itself violate the
20 constitution. Evans v. Skolnik, 637 Fed. Appx. 285, 288 (9th Cir. 2015), cert. dism'd, 136 S. Ct.
21 2390 (2016). Thus, the denial, rejection, or cancellation of a grievance does not constitute a due
22 process violation. See, e.g., Wright v. Shannon, 2010 WL 445203, at *5 (E.D. Cal. Feb. 2, 2010)
23 (plaintiff's allegations that prison officials denied or ignored his inmate appeals failed to state a
24 cognizable claim under the First Amendment); Towner v. Knowles, 2009 WL 4281999 at *2
25 (E.D. Cal. Nov. 20, 2009) (plaintiff's allegations that prison officials screened out his inmate
26 appeals without any basis failed to indicate a deprivation of federal rights); Williams v. Cate,
27 2009 WL 3789597, at *6 (E.D. Cal. Nov. 10, 2009) ("Plaintiff has no protected liberty interest in
28 the vindication of his administrative claims."). Therefore, plaintiff's claims that Chapman


1 wrongfully denied plaintiff's administrative appeals fail to state a due process claim and must be
2 dismissed.

3 IT IS HEREBY ORDERED that the December 14, 2016 findings and recommendations
4 (ECF No. 32) are vacated; and

5 IT IS RECOMMENDED that this action be dismissed.

6 These findings and recommendations are submitted to the United States District Judge
7 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
8 after being served with these findings and recommendations, plaintiff may file written objections
9 with the court and serve a copy on all parties. Such a document should be captioned
10 "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that
11 failure to file objections within the specified time may waive the right to appeal the District
12 Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

13 Dated: June 16, 2017

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16 KENDALL J. NEWMAN
17 UNITED STATES MAGISTRATE JUDGE

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