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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>TERRENCE BROWNLEE,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>D. SWINGLE; et al.,</p> <p>Defendants - Appellees.</p>

No. 10-15705

D.C. No. 2:09-cv-03305-GEB-JFM

MEMORANDUM*

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

Submitted May 24, 2011**

Before: PREGERSON, THOMAS, and PAEZ, Circuit Judges.

Terrence Brownlee, a California state prisoner, appeals pro se from the district court’s judgment denying him leave to proceed in forma pauperis, under the “three strikes” provision of 28 U.S.C. § 1915(g), in his 42 U.S.C. § 1983 action alleging deliberate indifference to his medical needs and disability discrimination.

* 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).

We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's interpretation and application of 28 U.S.C. § 1915(g), *Andrews v. Cervantes*, 493 F.3d 1047, 1052 (9th Cir. 2007), and for an abuse of discretion its denial of leave to proceed in forma pauperis, *O'Loughlin v. Doe*, 920 F.2d 614, 617 (9th Cir. 1990). We affirm.

The district court properly denied Brownlee's application to proceed in forma pauperis because Brownlee does not contest that he is a three-strikes filer, and he failed to show that he was "under imminent danger of serious physical injury" at the time he filed the complaint. 28 U.S.C. § 1915(g); *see also Andrews*, 493 F.3d at 1055 (explaining that the exception to the three-strikes rule applies only "if the complaint makes a plausible allegation that the prisoner faced 'imminent danger of serious physical injury' at the time of filing").

Brownlee's "Request that this Court Take Judicial Intervention" is denied.

AFFIRMED.