

AUG 15 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JAY JOHNSON,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>WINN RESIDENTIAL; et al.,</p> <p>Defendants - Appellees.</p>

No. 10-56135

D.C. No. 2:10-cv-02787-UA-DUTY

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Audrey B. Collins, Chief Judge, Presiding

Submitted August 11, 2011**

Before: THOMAS, SILVERMAN, and CLIFTON, Circuit Judges.

Jay Johnson appeals pro se from the district court's order denying him in forma pauperis status in his action under the Fair Housing Act. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Tripati v. First Nat'l Bank & Trust*, 821 F.2d 1368, 1369 (9th Cir. 1987). We affirm.

* 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).

Johnson does not raise the district court's denial of in forma pauperis status in his brief, and thus it is waived. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam) ("This court will not ordinarily consider matters on appeal that are not specifically and distinctly raised and argued in appellant's opening brief." (citation and internal quotation marks omitted)).

Contrary to Johnson's contention and to the extent that he raised it before the district court, there was no error in failing to consolidate this case with Johnson's other federal action that was already pending on appeal when Johnson filed this case.

AFFIRMED.