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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JEFFREY CURTIS PALMER,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>WARDEN, CIM, RC-West Facility; et al.,</p> <p>Defendants - Appellees.</p>
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No. 10-57034

D.C. No. 5:10-cv-01270-UA-MAN

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dean D. Pregerson, District Judge, Presiding

Submitted February 21, 2012**

Before: FERNANDEZ, McKEOWN, and BYBEE, Circuit Judges.

Jeffrey Curtis Palmer, a former California state prisoner, appeals pro se from the district court's order denying his request to proceed in his 42 U.S.C. § 1983 action without prepayment of filing fees. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion the district court's denial of leave to

* 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).

proceed in forma pauperis, *Tripati v. First Nat'l Bank & Trust*, 821 F.2d 1368, 1369 (9th Cir. 1987), and we affirm.

The district court did not abuse its discretion in denying Palmer's request to proceed without prepayment of filing fees because Palmer failed to provide a certified copy of his trust fund statement for the prior six months as required by 28 U.S.C. § 1915(a)(2). Further, it appears from the face of the complaint that the claims were either unexhausted, barred by *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994), or based upon impermissible respondeat superior liability. *See Tripati*, 821 F.2d at 1370 ("A district court may deny leave to proceed in forma pauperis at the outset if it appears from the face of the proposed complaint that the action is frivolous or without merit.").

Palmer's remaining contentions are unpersuasive.

AFFIRMED.