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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MICHAEL EDWARD SLATON, Plaintiff - Appellant, v. PARTIDA JORGE, in their individual capacities; QUINN ROSS, Defendants - Appellees.	No. 10-56442 D.C. No. 5:10-cv-01071-UA -JCG MEMORANDUM*

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

Submitted November 13, 2012**

Before: CANBY, TROTT, and W. FLETCHER, Circuit Judges.

Michael Edward Slaton, a federal prisoner, appeals pro se from the district court's order denying him leave to proceed in forma pauperis in his action under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S.

* 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).

388 (1971), alleging deliberate indifference to his serious medical needs. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion, *O'Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990), and we affirm.

The district court did not abuse its discretion by denying Slaton leave to proceed in forma pauperis because Slaton's proposed complaint failed to allege properly that defendants knew of and disregarded an excessive risk to his health with regard to the diet available to Slaton. *See id.* at 616-17; *see also Toguchi v. Chung*, 391 F.3d 1051, 1058 (9th Cir. 2004) (to state a claim for deliberate indifference, inmate must allege that defendant knew of and disregarded "'an excessive risk to inmate health'"; mere disagreement between inmate and physician regarding course of treatment does not constitute deliberate indifference (citation omitted)).

AFFIRMED.