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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BRYAN KEITH RICHARDSON,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>FRANCISCO QUINTANA, Warden; et al.,</p> <p>Defendants - Appellees.</p>
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No. 11-55902

D.C. No. 5:11-cv-00420-UA-AGR

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
George H. King, Chief Judge, Presiding

Submitted November 13, 2012**

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

Federal prisoner Bryan Keith Richardson appeals pro se from the district court's order denying his motion to proceed in forma pauperis in his action brought under *Bivens v. Six Unknown Names Agents of Federal Bureau of Narcotics*, 403

* 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).

U.S. 388 (1971). 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 Richardson's motion to proceed in forma pauperis because the complaint shows that the action is without merit. *See id.* at 616-17; *see also Sandin v. Conner*, 515 U.S. 472, 475-76, 486 (1995) (prisoner has no due process right to present witnesses at prison disciplinary proceeding where no atypical hardship imposed).

Richardson's contention that the district court failed to construe his complaint as a *Bivens* action is unpersuasive.

AFFIRMED.