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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>WILL MOSES PALMER,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p style="text-align: center;">v.</p> <p>NURSE LEMOY,</p> <p style="text-align: center;">Defendant - Appellee.</p>
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No. 12-15489

D.C. No. 1:11-cv-01895-LJO-GBC

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O’Neill, District Judge, Presiding

Submitted March 12, 2013**

Before: PREGERSON, REINHARDT, and W. FLETCHER, Circuit Judges.

Will Moses Palmer, a California state prisoner, appeals pro se from the district court’s order denying his request to proceed in forma pauperis in his 42 U.S.C. § 1983 action alleging deliberate indifference. We have jurisdiction under

* 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).

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, 616 (9th Cir. 1990). We affirm.

The district court properly denied Palmer’s request to proceed in forma pauperis because at least three of Palmer’s prior § 1983 actions were dismissed on the basis that they were frivolous or failed to state a claim, and Palmer did not provide plausible allegations that he was “under imminent danger of serious physical injury” at the time he lodged the complaint. 28 U.S.C. § 1915(g); *see also Andrews*, 493 F.3d at 1055 (an exception to the three-strikes rule exists only where “the complaint makes a plausible allegation that the prisoner faced ‘imminent danger of serious physical injury’ at the time of filing”).

We do not consider Palmer’s contentions concerning the district court’s allegedly improper decisions in an earlier action.

Palmer’s motion for judicial notice, filed on June 29, 2012, is granted.

AFFIRMED.