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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>MELVIN JAMES BLAKE,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p>v.</p> <p>TERRI MCDONALD, individual capacity & official capacity; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>

No. 12-56291

D.C. No. 2:12-cv-04006-UA-MRW

MEMORANDUM*

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

Submitted July 24, 2013**

Before: ALARCÓN, CLIFTON, and CALLAHAN, Circuit Judges.

Melvin James Blake, a California state prisoner, appeals pro se from the district court’s order denying his request to proceed in forma pauperis (“IFP”) in his 42 U.S.C. § 1983 action stemming from the use of certain psychological tests

* 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).

during the parole eligibility process. We have jurisdiction under 28 U.S.C. § 1291.

We review de novo the determination that a complaint lacks arguable substance in law or fact, and for an abuse of discretion the denial of leave to proceed IFP.

Tripati v. First Nat'l Bank & Trust, 821 F.2d 1368, 1369 (9th Cir. 1987). We affirm.

The district court did not abuse its discretion by denying Blake's request to proceed IFP because it properly concluded that Blake failed to state a claim. *See id.* 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.”).

AFFIRMED.