

FEB 26 2015

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U.S. COURT OF APPEALS

## NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RODNEY JEROME WOMACK,

Plaintiff - Appellant,

v.

L. SULLIVAN; et al.,

Defendants - Appellees.

No. 14-15410

D.C. No. 2:14-cv-00085-WBS-  
EFB

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
William B. Shubb, District Judge, Presiding

Submitted February 17, 2015\*\*

Before: O'SCANNLAIN, LEAVY, and FERNANDEZ, Circuit Judges.

Rodney Jerome Womack, a California state prisoner, appeals pro se from the district court's dismissal of his 42 U.S.C. § 1983 action alleging deliberate indifference and retaliation. The district court dismissed for failure to pay a filing fee, after it denied Womack in forma pauperis status on the grounds that he had

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\* 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).

“three strikes” under 28 U.S.C. § 1915(g). We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo a district court’s interpretation of section 1915(g) and related legal conclusions, *Andrews v. King*, 398 F.3d 1113, 1118 (9th Cir. 2005), and we affirm.

The district court did not abuse its discretion by denying Womack leave to proceed in forma pauperis because it correctly determined that Womack had filed at least three actions that had been dismissed as frivolous or for failure to state a claim. See 28 U.S.C. § 1915(g); *Andrews v. King*, 398 F.3d 1113, 1121 (9th Cir. 2005) (explaining the meaning of “frivolous” and “failure to state a claim” under § 1915(g)). Therefore, the district court properly dismissed Womack’s action for failure to pay the requisite filing fee.

We do not consider matters not specifically and distinctly raised and argued in the opening brief. See *Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam).

**AFFIRMED.**