

JUL 31 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EDDIE YOUNG,

Plaintiff - Appellant,

v.

A. MARTINEZ; et al.,

Defendants - Appellees.

No. 14-15649

D.C. No. 1:13-cv-00817-AWI-
MJS

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, District Judge, Presiding

Submitted July 21, 2015**

Before: CANBY, BEA, and MURGUIA, Circuit Judges.

Eddie Young appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action without prejudice after denying Young's request to proceed in forma pauperis under 28 U.S.C. § 1915(g). We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's interpretation and

* 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).

application of 28 U.S.C. § 1915(g), *Andrews v. King*, 398 F.3d 1113, 1118 (9th Cir. 2005), 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 did not abuse its discretion in denying Young’s request to proceed in forma pauperis because at least three of Young’s prior § 1983 actions were dismissed for failure to state a claim, and Young did not plausibly allege 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 v. Cervantes*, 493 F.3d 1047, 1055 (9th Cir. 2007) (an exception to the three-strikes rule applies “if the complaint makes a plausible allegation that the prisoner ‘faced imminent danger of serious physical injury’ at the time of filing”).

Because Young failed to pay the filing fee as ordered, the district court did not abuse its discretion in dismissing Young’s action without prejudice for failure to comply with a court order. *See Pagtalunan v. Galaza*, 291 F.3d 639, 640 (9th Cir. 2002) (setting forth standard of review and factors for a district court to consider in determining whether to dismiss for failure to comply with a court order).

AFFIRMED.