

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 20 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

RAYMOND ALFORD BRADFORD,

No. 16-15899

Plaintiff-Appellant,

D.C. No. 1:15-cv-01918-AWI-
DLB

v.

C. OGBUEHI and NIETAS,

MEMORANDUM*

Defendants-Appellees.

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

Submitted March 8, 2017**

Before: LEAVY, W. FLETCHER, and OWENS, Circuit Judges.

California state prisoner Raymond Alford Bradford appeals pro se from the district court's judgment denying him leave to proceed in forma pauperis in his 42 U.S.C. § 1983 alleging deliberate indifference to Bradford's ulcerative colitis and celiac disease. We have jurisdiction under 28 U.S.C. § 1291. We review de novo

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

the district court's interpretation and application of the "three-strikes" rule of the Prison Litigation Reform Act, 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 reverse and remand.

The district court abused its discretion in denying Bradford leave to proceed in forma pauperis because Bradford plausibly alleged that he was "under imminent danger of serious physical injury" at the time he lodged the complaint. *See* 28 U.S.C. § 1915(g); *see also Andrews*, 493 F.3d at 1056-57 (discussing the imminent danger exception to § 1915(g)); *see also Williams v. Paramo*, 775 F.3d 1182, 1189-90 (9th Cir. 2015) (court should liberally construe prisoner's "facial allegations" and determine if the complaint "makes a plausible allegation" of imminent danger).

We do not consider facts or documents not presented to the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990) ("Documents or facts not presented to the district court are not part of the record on appeal.").

REVERSED and REMANDED.