

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 14 2018

FOR THE NINTH CIRCUIT

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

ILICH VARGAS,

Plaintiff-Appellant,

v.

JOHN MCMAHON, San Bernardino
County Sheriff, in his individual and official
capacities; et al.,

Defendants-Appellees.

No. 16-55816

D.C. No. 5:16-cv-00231-R-KES

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Manuel L. Real, District Judge, Presiding

Submitted March 13, 2018**

Before: THOMAS, Chief Judge, and TROTT and SILVERMAN,
Circuit Judges.

Pretrial detainee Ilich Vargas appeals pro se from the district court's order denying his application to proceed in forma pauperis ("IFP") in his 42 U.S.C. § 1983 action alleging constitutional claims arising from his pending state criminal

* 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).

proceedings and his custody in San Bernardino County's West Valley Detention Center. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *O'Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990). We affirm.

The district court did not abuse its discretion by denying Vargas's motion to proceed IFP because Vargas failed to allege facts in his proposed complaint sufficient to state a claim. *See id.* at 616-17 (district court may deny leave to proceed IFP "at the outset if it appears from the face of the proposed complaint that the action is frivolous or without merit") (quoting *Tripati v. First Nat'l Bank & Trust*, 821 F.2d 1368, 1370 (9th Cir. 1987)).

AFFIRMED.