NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SANTIAGO SOTO,

        Plaintiff - Appellant,

  v.

KEITH A. SUGAR,

        Defendant - Appellee.

No. 10-16110

D.C. No. 3:09-cv-04575-MMC

MEMORANDUM[*]

Appeal from the United States District Court
for the Northern District of California
Maxine M. Chesney, District Judge, Presiding

Submitted November 21, 2011[**]

Before: TASHIMA, BERZON, and TALLMAN, Circuit Judges.

    Santiago Soto, a California state prisoner, appeals pro se from the district

court's judgment dismissing his 42 U.S.C. § 1983 action alleging that his former

court-appointed attorney violated his right to access the courts. We have

jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a denial

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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).

of leave to proceed in forma pauperis, *O'Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990), and a dismissal for failure to comply with a court order, *Pagtalunan v. Galaza*, 291 F.3d 639, 640 (9th Cir. 2002). We vacate and remand.

The district court denied Soto's application to proceed in forma pauperis because Soto failed to submit the required six-month prisoner trust fund account statement as part of his application. It then dismissed the action without prejudice because Soto failed to comply with its order to pay the filing fee or submit a completed Prisoner's In Forma Pauperis Application. However, a review of the record shows that Soto filed a certified six-month prisoner trust fund account statement on September 28, 2009 and the remainder of his application on October 8, 2009. Accordingly, we vacate the judgment and remand to the district court for further proceedings.

Soto shall bear his own costs on appeal.

VACATED and REMANDED.