

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 5 2020

FOR THE NINTH CIRCUIT

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

VICTOR CHARLES FOURSTAR, Jr.,

No. 19-35512

Plaintiff-Appellant,

D.C. No. 3:19-cv-00400-MK

v.

MEMORANDUM*

HUGH J. HURWITZ, BOP Director; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the District of Oregon
Michael J. McShane, District Judge, Presiding

Submitted June 2, 2020**

Before: LEAVY, PAEZ, and BENNETT, Circuit Judges.

Victor Charles Fourstar, Jr., a former federal prisoner, appeals pro se from the district court's judgment denying his request to proceed in forma pauperis and dismissing his action under *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), for failure to pay the filing fee. We have

* 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).

jurisdiction under 28 U.S.C. § 1291. We affirm.

In his opening brief, Fourstar fails to raise, and has therefore waived, any challenge to the district court's determinations that he: 1) had three prior qualifying 'strikes' under § 1915(g) of the Prison Litigation Reform Act; and 2) failed to allege he was under imminent danger of serious physical injury at the time the complaint was lodged. *See Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) ("[W]e will not consider any claims that were not actually argued in appellant's opening brief."); *Acosta-Huerta v. Estelle*, 7 F.3d 139, 144 (9th Cir. 1993) (issues not supported by argument in pro se appellant's opening brief are waived); *see also Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994) ("We will not manufacture arguments for an appellant, and a bare assertion does not preserve a claim[.]").

All pending motions are denied.

AFFIRMED.