

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 23 2021

FOR THE NINTH CIRCUIT

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

JERRY KENT DILLINGHAM,

No. 20-17269

Plaintiff-Appellant,

D.C. No. 1:19-cv-00461-AWI-GSA

v.

MEMORANDUM*

J. GARCIA; et al.,

Defendants-Appellees.

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

Submitted February 17, 2021**

Before: FERNANDEZ, BYBEE, and BADE, Circuit Judges.

California state prisoner Jerry Kent Dillingham appeals pro se from the district court's order denying his motions for a temporary restraining order ("TRO") in his 42 U.S.C. § 1983 action alleging various constitutional claims. Our jurisdiction over interlocutory appeals is governed by 28 U.S.C. § 1292. Because

* 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 denial of Dillingham's motions for a TRO are not appealable interlocutory orders, we dismiss the appeal for lack jurisdiction.

An appeal ordinarily “does not lie from the denial of an application for a temporary restraining order” because such appeals are considered “premature.” *Religious Tech. Ctr., Church of Scientology Int'l, Inc. v. Scott*, 869 F.2d 1306, 1308 (9th Cir. 1989). A district court's order denying an application for a TRO is reviewable on appeal only if the order is tantamount to the denial of a preliminary injunction. *See id.* Because the district court's order did not amount to the denial of a preliminary injunction, we do not have jurisdiction.

Dillingham's motion to appoint counsel (Docket Entry No. 7) is denied.

DISMISSED.