

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 19 2022

FOR THE NINTH CIRCUIT

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

EDWARD VINCENT RAY, Jr.,

No. 19-15729

Plaintiff-Appellant,

D.C. No. 5:18-cv-06813-EJD

v.

MEMORANDUM\*

RALPH M. DIAZ, Acting Secretary for the  
California Department of Corrections and  
Rehabilitation; M. VOONG; CRAIG  
KOENIG, Acting Warden; TANI GORRE  
CANTIL-SAKAUYE; ROBERT R. TOY;  
FRANK ROESCH; ANNE KIRKPATRICK;  
LIBBY SCHAFF; SEAN WHENT;  
MICHAEL T. O'CONNER; TERENCE  
BRUINERS; CITY OF OAKLAND;  
OAKLAND POLICE DEPARTMENT,

Defendants-Appellees.

Appeal from the United States District Court  
for the Northern District of California  
Edward J. Davila, District Judge, Presiding

Submitted July 12, 2022\*\*

Before: SCHROEDER, R. NELSON, and VANDYKE, Circuit Judges.

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\* 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).

California state prisoner Edward Vincent Ray, Jr. appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action for failure to pay the filing fee after denying Ray's motion to proceed in forma pauperis ("IFP"). We have jurisdiction under 28 U.S.C. § 1291. We review de novo the district court's interpretation and application of 28 U.S.C. § 1915(g). *Andrews v. Cervantes*, 493 F.3d 1047, 1052 (9th Cir. 2007). We affirm.

The district court properly denied Ray's motion to proceed IFP because Ray had filed at least three prior actions that were dismissed as frivolous, malicious, or for failure to state a claim, and Ray did not plausibly allege that he was "under imminent danger of serious physical injury" at the time he lodged the complaint. *See* 28 U.S.C. § 1915(g); *Andrews*, 493 F.3d at 1053, 1055-56 (discussing the imminent danger exception to § 1915(g)).

We do not consider arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

We do not consider documents not presented to the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990).

Ray's motion to expedite and for an injunction (Docket Entry No. 14) is denied.

**AFFIRMED.**