

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 1 2024

FOR THE NINTH CIRCUIT

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

MICHAEL JAY HARRIS,

Plaintiff - Appellant,

v.

MATTHEW ATCHLEY; T. VANG,
Classification Staff Representative, Salinas
Valley State Prison; KATHLEEN
ALLISON, Secretary, CDCR; Chief Deputy
Warden TRISTAN LEMON, Salinas Valley
State Prison; Captain WADE, Facility A
Captain, Salinas Valley State Prison,

Defendants - Appellees.

No. 23-3254

D.C. No. 3:22-cv-00529-EMC

MEMORANDUM*

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

Submitted April 22, 2024**

Before: CALLAHAN, LEE, and FORREST, Circuit Judges.

* 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 Michael Jay Harris appeals pro se from the district court's order denying his motion for a preliminary injunction in his 42 U.S.C. § 1983 action seeking to prevent his transfer to another facility. We have jurisdiction under 28 U.S.C. § 1292(a)(1). We review for an abuse of discretion. *Am. Trucking Ass'ns, Inc. v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009). We affirm.

The district court did not abuse its discretion by denying Harris's motion for a preliminary injunction because Harris failed to establish that he was likely to suffer irreparable harm in the absence of preliminary injunctive relief. *See Boardman v. Pac. Seafood Grp.*, 822 F.3d 1011, 1022 (9th Cir. 2016) (explaining that "a plaintiff must *demonstrate* immediate threatened injury as a prerequisite to preliminary injunctive relief;" "[s]peculative injury does not constitute irreparable injury sufficient" to obtain a preliminary injunction (alteration in original and citation and internal quotation marks omitted)).

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).

Harris's motion for leave to file a supplemental appendix to the opening brief (Docket Entry No. 14-3) is denied as unnecessary. The supplemental appendix has been filed.

AFFIRMED.