

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 25 2016

FOR THE NINTH CIRCUIT

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

EDDIE YOUNG,

Plaintiff-Appellant,

v.

D. LUNA; et al.,

Defendants-Appellees.

No. 13-17642

D.C. No. 1:13-cv-02014-LJO-GSA

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O'Neill, Chief Judge, Presiding

Submitted August 16, 2016**

Before: O'SCANNLAIN, LEAVY, and CLIFTON, Circuit Judges.

California state prisoner Eddie Young appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action for failure to pay the filing fee.

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.*

* 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).

Cervantes, 493 F.3d 1047, 1052 (9th Cir. 2007). We review for an abuse of discretion a denial of leave to proceed in forma pauperis. *O’Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990). We affirm.

The district court did not abuse its discretion in denying Young leave to proceed in forma pauperis because at least three of Young’s prior § 1983 actions were dismissed for failure to state a claim, and Young did not plausibly allege that he was “under imminent danger of serious physical injury” at the time he lodged the complaint. 28 U.S.C. § 1915(g); *see Williams v. Paramo*, 775 F.3d 1182, 1190 (9th Cir. 2015) (allegations of “constant, daily threats of irreparable harm, injury and death” met the imminent danger exception to § 1915(g)); *Andrews*, 493 F.3d at 1052 (discussing the imminent danger exception to § 1915(g)).

We do not consider facts or documents not presented to the district court. *See United States v. Elias*, 921 F.2d 870, 874 (9th Cir. 1990) (“Documents or facts not presented to the district court are not part of the record on appeal.”).

AFFIRMED.