

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 18 2019

FOR THE NINTH CIRCUIT

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

GUILLERMO CRUZ TRUJILLO,

No. 18-16030

Plaintiff-Appellant,

D.C. No. 1:18-cv-00399-LJO-GSA

v.

MEMORANDUM*

A. LEYVA, Correctional Counselor;
OSTRANDER, Lieutenant,

Defendants-Appellees.

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

Submitted December 11, 2019**

Before: WALLACE, CANBY, and TASHIMA, Circuit Judges.

California state prisoner Guillermo Cruz Trujillo 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 concluding that Trujillo is not entitled to proceed in forma pauperis ("IFP"). We have jurisdiction under 28 U.S.C. § 1291. We review de

* 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).

novo. *Washington v. L.A. Cty. Sheriff's Dep't*, 833 F.3d 1048, 1054 (9th Cir. 2016). We may affirm on any basis supported in the record. *Thompson v. Paul*, 547 F.3d 1055, 1058-59 (9th Cir. 2008). We affirm.

Trujillo was not entitled to proceed IFP because at the time Trujillo filed the complaint, Trujillo had filed three actions or appeals that qualified as “strikes” under 28 U.S.C. § 1915(g). *See Trujillo v. Gonzalez-Moran, et al.*, Case No. 17-15200 (9th Cir. 2017); *Cruz v. Ruiz, et al.*, No. 1:14-cv-00975-SAB (PC) (E.D. Cal. January 6, 2016); *Trujillo v. Sherman, et al.*, No. 1:14-cv-01401-BAM (PC) (E.D. Cal. April 24, 2015). Moreover, Trujillo 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 v. Cervantes*, 493 F.3d 1047, 1055-57 (9th Cir. 2007) (discussing the imminent danger exception to § 1915(g)).

AFFIRMED.