

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

DEC 21 2016

FOR THE NINTH CIRCUIT

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

MARTIN JONASSEN,

No. 14-16377

Plaintiff-Appellant,

D.C. No. 4:13-cv-00792-DCB-
PSOT

v.

UNITED STATES OF AMERICA; et al.,

MEMORANDUM*

Defendants-Appellees.

Appeal from the United States District Court
for the District of Arizona
David C. Bury, District Judge, Presiding

Submitted December 14, 2016**

Before: WALLACE, LEAVY, and FISHER, Circuit Judges.

Federal prisoner Martin Jonassen appeals pro se from the district court's judgment dismissing his action under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), alleging constitutional violations. We have jurisdiction under 28 U.S.C. § 1291. We review de novo the

* 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).

district court's interpretation and application of 28 U.S.C. § 1915(g), *Andrews v. Cervantes*, 493 F.3d 1047, 1052 (9th Cir. 2007), and for an abuse of discretion its denial of leave to proceed in forma pauperis, *O'Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990). We vacate and remand.

The district court revoked Jonassen's in forma pauperis status without considering Jonassen's proposed Third Amended Complaint ("TAC"), which made plausible allegations that Jonassen was "under imminent danger of serious physical injury" at the time he lodged the TAC. 28 U.S.C. § 1915(g); *see also Andrews*, 493 F.3d at 1055 (an exception to the Prison Litigation Reform Act's three strikes rule applies if the complaint plausibly alleges that the prisoner faced imminent danger at the time he filed the complaint). Accordingly, we vacate the judgment and remand for further proceedings. The district court shall file the TAC docketed on March 5, 2014.

Jonassen's request for copies of all filings in the record, filed November 18, 2016, is granted in part. The Clerk shall send Jonassen a copy of the current docket sheet and a copy of the court's September 22, 2016 order.

All other pending requests and motions are denied.

VACATED and REMANDED.