

NOT FOR PUBLICATION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. 20-15021

Plaintiff-Appellant,

D.C. No. 1:19-cv-01561-AWI-SKO

v.

MEMORANDUM*

A. RIBERA, Water and Sewer Plant
Supervisor at CCI; B. CATES, Chief Deputy
Warden at CCI; J. GUTIERREZ, Associate
Warden at CCI,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, District Judge, Presiding

Submitted July 12, 2022**

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

California state prisoner Edward Vincent Ray, Jr. appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action after denying Ray's motion to proceed in forma pauperis ("IFP"). We have jurisdiction under 28

* 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).

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).

AFFIRMED.