

OCT 10 2007

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CHARLES NEUMANN, a/k/a Keith
Neuman,

Plaintiff - Appellant,

v.

MARTIN VEAL, Warden; et al.,

Defendants - Appellees.

No. 07-16322

D.C. No. CV-06-02874-MCE

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, District Judge, Presiding

Submitted October 1, 2007**

Before: B. FLETCHER, BERZON and IKUTA, Circuit Judges.

The district court has certified that this appeal is not taken in good faith, and so has revoked appellant's in forma pauperis status. Our review of the record

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

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indicates that appellant is entitled to in forma pauperis status for this appeal. *See* 28 U.S.C. § 1915(a). The Clerk shall amend the docket to reflect this status.

Appellant appeals pro se from the district court's dismissal of his 42 U.S.C. § 1983 action alleging that defendants discriminated against him on the basis of his mental health condition by denying him access to education and work programs. We have jurisdiction under 28 U.S.C. § 1291. We review de novo dismissals under 28 U.S.C. § 1915A for failure to state a claim. *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000). We have reviewed appellant's complaint, and we find that the district court erred in dismissing it for failure to state a claim. *See Boag v. MacDougall*, 454 U.S. 364, 365 (1982). Accordingly, we reverse and remand for further proceedings.

REVERSED and REMANDED.