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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>VICTOR CHARLES FOURSTAR, Jr.,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>MURLAK, Institutional Counselor; et al.,</p> <p>Defendants - Appellees.</p>

No. 07-56644

D.C. No. CV-07-05892-AHS

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Alicemarie H. Stotler, District Judge, Presiding

Submitted January 13, 2009**

Before: O'SCANNLAIN , BYBEE, and CALLAHAN, Circuit Judges.

Federal prisoner Victor Charles Fourstar, Jr. appeals pro se from the district court's denial of his request to file his action without prepayment of the full filing fee. We have jurisdiction under 28 U.S.C. § 1291. We review for abuse of

* 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).

discretion. *Calhoun v. Stahl*, 254 F.3d 845 (9th Cir. 2001) (per curiam). We vacate and remand.

The reason given by the district court for denying Fourstar permission to file his action without prepayment, his failure to file a certified copy of his trust fund statement for the last six months, is not supported by the record. Accordingly, we remand to the district court for further proceedings consistent with this disposition.

No costs awarded on appeal.

VACATED and REMANDED.