

MAY 26 2009

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JOSEPH PUCKETT,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p style="text-align: center;">v.</p> <p>JERRY DYER; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>
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No. 08-15463

D.C. No. 1:05-CV-00277-LJO-DLB

MEMORANDUM*

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

Submitted May 12, 2009**

Before: PREGERSON, CANBY, and BERZON, Circuit Judges.

Joseph Puckett appeals pro se from the district court’s orders granting the defendants’ motion to dismiss his complaint, with prejudice, for failure to comply with court orders and denying Puckett’s motion for reconsideration in his 42

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

U.S.C. § 1983 action alleging excessive force and deliberate indifference. We have jurisdiction under 28 U.S.C. § 1291. We review for abuse of discretion both the dismissal of a complaint for failure to comply with a court order, *Malone v. United States Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987), and the denial of a reconsideration motion, *Sch. Dist. No. 1J, Multnomah County, Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993). We affirm.

The district court did not abuse its discretion by dismissing the complaint in light of Puckett's failure to comply with numerous discovery orders despite earlier sanctions and warnings that failure to comply could result in dismissal of the case. *See* Fed. R. Civ. P. 37(b)(2)(A) (permitting dismissal of action where a party has failed to comply with court's discovery orders); *Malone*, 833 F.2d at 130 (holding that dismissal is appropriate where failure to comply with court's orders prejudiced the defendants and burdened both the court's docket and the public interest in speedy litigation, and the district court considered less drastic sanctions and warned the plaintiff before dismissal).

The district court also did not abuse its discretion in denying Puckett's motion for reconsideration given that the motion presented no pertinent new evidence, law, or demonstration of clear error. *See Sch. District No. 1J, Multnomah County*, 5 F.3d at 1263 (reconsideration is appropriate if the district

court is presented with newly discovered evidence, committed clear error or the initial decision was manifestly unjust, or if there is an intervening change in controlling law).

Puckett's remaining contentions are unpersuasive.

AFFIRMED.