

JAN 22 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TINA DAVIS,

Plaintiff - Appellant,

v.

SOUTHERN ARIZONA VETERANS
AFFAIRS HEALTH CARE SYSTEM; et
al.,

Defendants - Appellees.

No. 08-16662

D.C. No. 4:01-cv-00039-JMR

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
John M. Roll, Chief District Judge, Presiding

Submitted January 11, 2010**

Before: BEEZER, TROTT, and BYBEE, Circuit Judges.

Tina Davis appeals pro se from the district court's judgment dismissing her

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

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

employment discrimination action for failure to comply with the district court's order requiring her to submit to a deposition. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987). We affirm.

The district court did not abuse its discretion by dismissing the action after weighing the pertinent factors. *See id.* (addressing factors to consider in determining whether a district court abused its discretion by dismissing an action under Fed. R. Civ. P. 37(b)(2) or 41(b)); *see also Eisen v. CoBen (In re Eisen)*, 31 F.3d 1447, 1455 (9th Cir. 1994) (“[A]n express warning regarding the possibility of dismissal is [not] a prerequisite to a Rule 41(b) dismissal when dismissal follows a noticed motion under Rule 41(b).”).

Davis's remaining contentions are unpersuasive.

AFFIRMED.