

MAR 08 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NGUGI FRED NGANGA,

Plaintiff - Appellant,

v.

UCLA HARBOR MEDICAL CENTER,

Defendant - Appellee.

No. 08-55805

D.C. No. 2:07-cv-07925-UA

MEMORANDUM*

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

Submitted February 16, 2010**

Before: FERNANDEZ, GOULD, and M. SMITH, Circuit Judges.

Ngugi Fred Nganga appeals pro se from the district court's order administratively closing his action for failure to submit a complaint or petition to the court. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse

* 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).

of discretion, *Pagtalunan v. Galaza*, 291 F.3d 639, 640 (9th Cir. 2002), and we vacate and remand.

The record indicates that Nganga's complaint was lodged with the district court on December 5, 2007, and docketed on December 12, 2007. Accordingly, Nganga did not fail to submit a complaint, and we vacate and remand for further proceedings.

Nganga shall bear his own costs on appeal.

VACATED and REMANDED.