

APR 21 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROYAL PORTER McHENRY,

Plaintiff - Appellant,

v.

LOS ANGELES COUNTY SHERIFF'S  
DEPARTMENT; et al.,

Defendants - Appellees.

No. 08-55447

D.C. No. 2:07-cv-07338-R-JWJ

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Manuel L. Real, District Judge, Presiding

Submitted April 5, 2010\*\*

Before: RYMER, McKEOWN, and PAEZ, Circuit Judges.

Royal Porter McHenry, an inmate in Los Angeles County Jail, appeals pro se from the district court's judgment dismissing, without prejudice, his 42 U.S.C. § 1983 action for failure to comply with a court order. We have jurisdiction under

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

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

28 U.S.C. § 1291. We review for abuse of discretion, *Pagtalunan v. Galaza*, 291 F.3d 639, 640 (9th Cir. 2002), and we affirm.

The district court did not abuse its discretion in dismissing the action because McHenry failed to comply with the district court's order requiring him to file an amended complaint within a specified time period. *See id.* at 642–43 (discussing factors a court must weigh to determine whether to dismiss a claim for failure to comply with a court order). Further, McHenry asked the district court to dismiss this action. To the extent McHenry sought to stand on the original complaint, we agree with the magistrate judge's order of December 4, 2007, that the complaint failed to allege sufficient facts to put defendants on notice of a claim against them.

We do not consider issues not properly raised before the district court. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999).

McHenry's remaining contentions are unpersuasive.

**AFFIRMED.**