

AUG 02 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BRYAN DAVIS, SR.,</p> <p style="text-align: center;">Plaintiff - Appellant,</p> <p>v.</p> <p>DAVID R. SHAW; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p>
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No. 09-15333

D.C. No. 2:08-cv-02161-FCD-JFM

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Frank C. Damrell, Jr., District Judge, Presiding

Submitted July 19, 2010\*\*

Before: B. FLETCHER, REINHARDT, and WARDLAW, Circuit Judges.

Bryan Davis, Sr., a California state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review for abuse of discretion the district

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\* 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).

court's dismissal for failure to comply with an order of the court. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). We affirm.

The district court did not abuse its discretion by dismissing the action, without prejudice, after Davis failed to file an amended complaint despite being warned twice that failure to do so would result in dismissal. *See id.* at 1260-63 (the district court did not abuse its discretion by dismissing after providing the litigant with notice of the complaint's defects and adequate time to amend).

**AFFIRMED.**