

SEP 29 2010

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BRIAN K. JOHNSON,

Plaintiff - Appellant,

v.

REED HOLTGEERTS, Director, DAJD;
et al.,

Defendants,

and

OFFICER NAVEJAS, RJC and KING
COUNTY JAIL,

Defendants - Appellees.

No. 09-35189

D.C. No. 2:08-cv-00232-RSM

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Ricardo S. Martinez, District Judge, Presiding

Submitted September 22, 2010**

Before: WALLACE, HAWKINS and THOMAS, Circuit Judges.

* 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).

Our independent review of the record indicates that the district court did not abuse its discretion by dismissing Brian K. Johnson's ("Johnson") action under Federal Rule of Civil Procedure 37 after Johnson was warned that failure to comply with the district court's pretrial order could result in dismissal of the case, he refused to answer questions at both of his depositions, and he failed to provide relevant arguments in opposition to defendants' motion to dismiss. *See Valley Eng'rs Inc. v. Elec. Eng'g Co.*, 158 F.3d 1051, 1057 (9th Cir. 1998) (listing factors to consider in determining whether dismissal is proper under Rule 37).

Johnson's remaining contentions are unpersuasive.

Johnson's pending motions are denied.

AFFIRMED.