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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>TOBIAS I. BACA, AKA Tobias Baca,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>ROBERT N. EWING; et al.,</p> <p>Defendants - Appellees.</p>
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No. 09-16491

D.C. No. 2:09-cv-00687-ECV

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Frederick J. Martone, District Judge, Presiding

Submitted October 19, 2010**

Before: O’SCANNLAIN, LEAVY, and TALLMAN, Circuit Judges.

Tobias I. Baca appeals pro se from the district court’s judgment dismissing his action without prejudice under Federal Rule of Civil Procedure 41(b). We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion, *Ash v. Cvetkov*, 739 F.2d 493, 495 (9th Cir. 1984), and we affirm.

* 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).

The district court did not abuse its discretion by dismissing the action without prejudice for lack of prosecution because Baca failed to comply with Arizona Local Rule 3.8(a) and failed to appear in response to the court's order to show cause. *See id.* at 496-97 (listing factors to consider before dismissing an action for lack of prosecution and explaining that “[a] relatively brief period of delay is sufficient to justify” a dismissal without prejudice for failure to prosecute). Accordingly, we do not address Baca's contentions about the merits.

AFFIRMED.