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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>JAMES H. JONES, SR.; AUDRAE R. JONES,</p> <p style="text-align: center;">Plaintiffs - Appellants,</p> <p style="text-align: center;">v.</p> <p>CITY OF LOS ANGELES; et al.,</p> <p style="text-align: center;">Defendants - Appellees.</p> |
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No. 09-56807

D.C. No. 2:09-cv-03162-MMM-VBK

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Margaret M. Morrow, District Judge, Presiding

Submitted February 15, 2011**

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

James H. Jones, Sr., and Audrae R. Jones appeal pro se from the district court's judgment dismissing their 42 U.S.C. § 1983 action. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion the district court's

* 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).

dismissal for failure to prosecute. *Ash v. Cvetkov*, 739 F.2d 493, 495 (9th Cir. 1984). We affirm.

The district court did not abuse its discretion by dismissing the action without prejudice because the Joneses failed to file an amended complaint after being given adequate time to do so and being warned twice that failure to do so may result in dismissal. *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).

AFFIRMED.