

MAY 03 2011

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

\_\_\_\_\_  
THERON N. LYNCH,

Plaintiff - Appellant,

v.

NAPA STATE HOSPITAL; et al.,

Defendants - Appellees.  
\_\_\_\_\_

No. 10-15463

D.C. No. 4:08-cv-05206-PJH

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Phyllis J. Hamilton, District Judge, Presiding

Submitted April 5, 2011\*\*

Before: B. FLETCHER, CLIFTON, and BEA, Circuit Judges.

Theron N. Lynch, a former detainee at Napa State Hospital, appeals pro se from the district court’s judgment dismissing without prejudice for failure to serve the summonses and complaint properly under Fed. R. Civ. P. 4 his 42 U.S.C. § 1983 action alleging constitutional violations. We consider sua sponte whether

---

\* 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).

we have jurisdiction over this appeal, *Hostler v. Groves*, 912 F.2d 1158, 1160 (9th Cir. 1990), and we dismiss.

Lynch's notice of appeal was untimely because it was filed more than thirty days after the district court entered judgment. *See* Fed. R. App. 4(a)(1)(A).

Accordingly, we lack jurisdiction over this appeal. *See Stephanie-Cardona LLC v. Smith's Food & Drug Ctrs., Inc.*, 476 F.3d 701, 703 (9th Cir. 2007) ("A timely notice of appeal is a non-waivable jurisdictional requirement.").

**DISMISSED.**