

MAY 03 2011

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>ROBERT ANTHONY WINTERS,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>SUSAN HUBBARD, Director of CDCR; et al.,</p> <p>Defendants - Appellees.</p>
---

No. 10-15667

D.C. No. 1:08-cv-01681-LJO-DLB

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Lawrence J. O’Neill, District Judge, Presiding

Submitted April 20, 2011\*\*

Before: RYMER, THOMAS, and PAEZ, Circuit Judges.

California state prisoner Robert Anthony Winters appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action for failure to obey a court order. We have jurisdiction under 28 U.S.C. § 1291. We review for an

---

\* 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).

abuse of discretion, *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992), and we affirm.

The district court did not abuse its discretion in dismissing Winters's action after twice providing notice, an opportunity to amend, and a warning that failure to amend or provide notice of his desire to proceed with the claims that survived screening would lead to dismissal. *See id.* at 1261 (district court did not abuse its discretion in dismissing for failure to obey a court order where litigation had lasted a year and a half and district court had provided plaintiff with opportunities to amend, instructions, and notice of potential dismissal for failure to obey the order); *see also Edwards v. Marin Park, Inc.*, 356 F.3d 1058, 1065 (9th Cir. 2004) (plaintiff's failure to amend complaint or notify court of intent to stand on unamended complaint justifies dismissal under Fed. R. Civ. P. 41(b)).

Winters's remaining contentions are unpersuasive.

Winters's emergency motion, filed on July 8, 2010, is construed as a motion to supplement the opening brief and to supplement the record on appeal, and is denied.

**AFFIRMED.**