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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>BILLY RAY O’NEAL,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>COUNTY OF SAN FRANCISCO; et al.,</p> <p>Defendants - Appellees.</p>

No. 09-16569

D.C. No. 4:08-cv-04669-SBA

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Saundra B. Armstrong, District Judge, Presiding

Submitted May 24, 2011**

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

Billy Ray O’Neal, a California state prisoner, appeals pro se from the district court’s order dismissing without prejudice his 42 U.S.C. § 1983 action alleging excessive force. We review for an abuse of discretion a district court’s dismissal under its local rules. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (per

* 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).

curiam). We reverse and remand.

Under the circumstances set forth in O'Neal's briefs and the district court record, dismissal of the action was an abuse of discretion.

O'Neal's motion to file a supplemental opening brief, filed on March 8, 2011, is granted.

REVERSED and REMANDED.