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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>D. DUSTIN,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>CAPTAIN TYSON; et al.,</p> <p>Defendants - Appellees.</p>
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No. 10-16158

D.C. No. 1:08-cv-00380-LJO-GSA

MEMORANDUM\*

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

Submitted July 12, 2011\*\*

Before: SCHROEDER, ALARCÓN, and LEAVY, Circuit Judges.

D. Dustin, a California state prisoner, appeals pro se from the district court’s judgment dismissing for failure to comply with a court order his 42 U.S.C. § 1983 action alleging various constitutional violations. We have jurisdiction under 28

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\* 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).

U.S.C. § 1291. We review for an abuse of discretion. *Pagtalunan v. Galaza*, 291 F.3d 639, 640-41 (9th Cir. 2002). We affirm.

The district court did not abuse its discretion by dismissing Dustin’s action for failure to comply with a court order because Dustin failed to file an amended complaint after the court had granted six extensions. *See id.* at 642-43 (discussing factors that district courts must consider before dismissing for failure to comply with a court order). Similarly, the district court did not abuse its discretion by declining to provide Dustin with further copies of his original complaint after twice providing him copies of his original complaint.

The district court did not abuse its discretion by denying Dustin’s recusal motion because the magistrate judge’s prior rulings in this and other cases did not constitute grounds for recusal. *See Liteky v. United States*, 510 U.S. 540, 555 (1994) (“[J]udicial rulings alone almost never constitute a valid basis for a bias or partiality motion.”); *Kulas v. Flores*, 255 F.3d 780, 783 (9th Cir. 2001) (setting forth standard of review).

We do not consider matters not raised in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam).

Dustin’s remaining contentions are unpersuasive.

**AFFIRMED.**