

MAR 12 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CORY POCHE,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>EWALD, Police Officer,</p> <p>Defendant - Appellee.</p>
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No. 10-56011

D.C. No. 2:08-cv-08423-SVW-RC

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Stephen V. Wilson, District Judge, Presiding

Submitted February 28, 2012\*\*

Before: LEAVY, THOMAS, and CHRISTEN, Circuit Judges.

Cory Poche appeals from the district court’s judgment in his 42 U.S.C.

§ 1983 action alleging excessive force. We have jurisdiction under 28 U.S.C.

§ 1291. We review for an abuse of discretion a dismissal for failure to prosecute

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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).

under Rule 41(b) of the Federal Rules of Civil Procedure. *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986). We affirm.

The district court did not abuse its discretion in dismissing Poche's action because, despite multiple warnings, Poche failed to pursue default judgment in a prompt manner. *See id.* (factors for dismissing under Rule 41(b)).

We do not consider arguments and allegations raised for the first time on appeal. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999).

Poche's remaining contentions are unpersuasive.

**AFFIRMED.**