

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

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

REGINALD B. DeJOHNETTE,

Plaintiff - Appellant,

v.

SUZAN HUBBARD, Warden; et al.,

Defendants - Appellees.

No. 10-17669

D.C. No. 3:08-cv-05604-MMC

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Maxine M. Chesney, District Judge, Presiding

Submitted November 13, 2012**

Before: CANBY, TROTT, and W. FLETCHER, Circuit Judges.

Reginald B. DeJohnette, a California state prisoner, appeals pro se from the district court's order denying his motion for an extension of time to file a second amended complaint and dismissing his 42 U.S.C. § 1983 action for failure to

* 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).

comply with a court order. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1258 (9th Cir. 2010) (denial of extension of time under Federal Rule of Civil Procedure 6(b)); *Yourish v. Cal. Amplifier*, 191 F.3d 983, 989 (9th Cir. 1999) (dismissal for failure to comply with a court order). We affirm.

The district court did not abuse its discretion by denying DeJohnette's motion for an extension of time and dismissing the action without prejudice because DeJohnette failed to establish good cause for granting an extension, and at least three out of five factors weighed in favor of dismissal for failure to comply with the court's order requiring submission of an amended complaint. *See Ahanchian*, 624 F.3d at 1258-60 (discussing the good cause requirement of Fed. R. Civ. P. 6(b)(1)); *Yourish*, 191 F.3d at 990 (factors for determining whether to dismiss for failure to comply with a court order).

DeJohnette's contentions concerning the dismissal of his original complaint are unpersuasive.

DeJohnette's request for appointment of counsel, set forth in his opening brief, is denied.

DeJohnette's motion to exceed the page limit, submitted on November 2, 2011, is granted.

AFFIRMED.