

FEB 15 2013

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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DONALD DOWELL,

Plaintiff - Appellant,

v.

WILLIAM TODD GRIFFIN, Sergeant
Team Police Officer, # 4210; MATTHEW
BOTKIN, City of San Diego Police
Officer, # 5875; MATTHEW ZDUNICH,
City of San Diego Police Officer, # 5836,

Defendants - Appellees.

No. 12-55749

D.C. No. 3:09-cv-02576-CAB-
MDD

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Cathy Ann Bencivengo, District Judge, Presiding

Submitted December 12, 2012**

Before: HUG, FARRIS, and LEAVY, Circuit Judges.

* 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).

Donald Dowell appeals pro se various decisions of the district court following an unfavorable jury verdict in his § 1983 action against three San Diego police officers. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.¹

We review a court's exclusion of evidence for an abuse of discretion. *Zhang v. American Gem Seafoods, Inc.*, 339 F.3d 1020, 1028 (9th Cir. 2003). We likewise review a court's granting or denying a request for a subpoena for abuse of discretion. *See Mabe v. San Bernardino County, Dept. of Pub. Soc. Serv.*, 237 F.3d 1101, 1112 (9th Cir. 2001).

The district court did not abuse its discretion by granting the defendants' evidentiary motions in limine. A district court may properly exclude evidence that is not relevant to proving that party's claims. *See Nationwide Transport Finance v. Cass Information Systems, Inc.*, 523 F.3d 1051, 1060 (9th Cir. 2008); *Wall Data Inc. v. Los Angeles County Sheriff's Dept.*, 447 F.3d 769, 782 (9th Cir. 2006). Moreover, reversal is not warranted because Dowell cannot show prejudice. *See Wall Data Inc.*, 447 F.3d at 783.

The district court did not abuse its discretion in failing to subpoena Dowell's witnesses. Federal Rule of Civil Procedure 45 does not require a district court to

¹ Because the parties are familiar with the facts underlying this appeal, we do not recount the facts here.

subpoena a party's witnesses in a civil proceeding. Moreover, Dowell was not prejudiced by the district court's failure to issue subpoenas.

AFFIRMED.