

APR 23 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT P. BENYAMINI,

Plaintiff - Appellant,

v.

SAHOOTA; et al.,

Defendants - Appellees.

No. 12-16863

D.C. No. 2:11-cv-02916-GEB-
EFB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Garland E. Burrell, Jr., District Judge, Presiding

Submitted April 16, 2013**

Before: CANBY, IKUTA, and WATFORD, Circuit Judges.

Robert P. Benyamini, a former California state prisoner, appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action alleging deliberate indifference to his medical needs and other constitutional violations. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion the

* 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).

dismissal of an action for failure to comply with an order to file an amended complaint, *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992), and we affirm.

The district court did not abuse its discretion by dismissing the action after providing Benyamini with an opportunity to amend his complaint, apprising him of the deficiencies of his pleading, and warning him that failure to amend would result in dismissal. *See* Fed. R. Civ. P. 41(b) (allowing dismissal of action for failure to comply with court orders); *Ferdik*, 963 F.2d at 1260-61 (listing factors to guide dismissal under Rule 41(b)).

AFFIRMED.