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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JESSIE LEWIS,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>UNKNOWN DIPONZIO,</p> <p>Defendant - Appellee.</p>
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No. 12-16867

D.C. No. 2:12-cv-00936-JAT-BSB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
James A. Teilborg, District Judge, Presiding

Submitted June 18, 2013**

Before: TALLMAN, M. SMITH, and HURWITZ, Circuit Judges.

Arizona state prisoner Jessie Lewis appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action alleging violations of his Fourteenth Amendment rights in connection with defendant’s refusal to discipline another officer after that officer cited Lewis for loitering. We have jurisdiction

* 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 28 U.S.C. § 1291. We review de novo a dismissal under 28 U.S.C. § 1915A, *Resnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000), and for an abuse of discretion a decision to dismiss a complaint without leave to amend, *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000) (en banc). We affirm.

The district court properly dismissed Lewis's action because Lewis failed to allege facts showing that defendant's conduct deprived him of a federal right. *See* 42 U.S.C. § 1983; *Gibson v. United States*, 781 F.2d 1334, 1338 (9th Cir. 1986) (stating elements of a cause of action under § 1983).

The district court did not abuse its discretion by dismissing without leave to amend after providing Lewis with one opportunity to amend and concluding that further amendment would be futile. *See Cato v. United States*, 70 F.3d 1103, 1106-07 (9th Cir. 1995) (dismissal without leave to amend is not an abuse of discretion where amendment would be futile).

Lewis's motions for appointment of counsel and for relief from appeal are denied.

AFFIRMED.