

AUG 05 2013

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JONATHAN McALLISTER, Sr.,</p> <p>Plaintiff- Appellant,</p> <p>v.</p> <p>PRESTON, Licensed Practitioner, Nurse at ADC/ASPC Eyman-Meadows Unit,</p> <p>Defendant - Appellee.</p>

No. 12-16672

D.C. No. 2:10-cv-02638-JAT

MEMORANDUM*

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

Submitted July 24, 2013**

Before: ALARCÓN, CLIFTON, and CALLAHAN, Circuit Judges.

Jonathan McAllister, Sr., an Arizona state prisoner, appeals pro se from the district court’s judgment dismissing for failure to comply with a court order his 42

* 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).

U.S.C. § 1983 action alleging constitutional violations. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Pagtalunan v. Galaza*, 291 F.3d 639, 640 (9th Cir. 2002). We affirm.

The district court did not abuse its discretion by dismissing McAllister's action without prejudice after McAllister failed to comply with the district court's March 12, 2012 order to show cause in a timely manner. *See id.*, 291 F.3d at 642-43 (discussing factors for dismissal under Fed. R. Civ. P. 41(b) and affirming dismissal where three out of five factors supported it).

Because we affirm the district court's dismissal under Rule 41(b), we do not consider McAllister's challenges to the district court's interlocutory orders. *See Al-Torki v. Kaempfen*, 78 F.3d 1381, 1386 (9th Cir. 1996).

AFFIRMED.