

JAN 30 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN SHEK,

Plaintiff - Appellant,

v.

CHILDREN HOSPITAL RESEARCH  
CENTER IN OAKLAND; et al.,

Defendants - Appellees.

No. 13-17032

D.C. No. 3:13-cv-02017-WHA

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
William Alsup, District Judge, Presiding

Submitted January 21, 2015\*\*

Before: CANBY, GOULD, and N.R. SMITH, Circuit Judges.

John Shek appeals pro se from the district court's judgment dismissing his employment action alleging various federal and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review for abuse of discretion the district

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\* 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).

court's dismissal for failure to comply with a court order, *In re Phenylpropanolamine (PPA) Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006), and we affirm.

The district court did not abuse its discretion by dismissing Shek's action for failing to comply with its July 10, 2013 order because at least three of the five relevant factors weighed in favor of dismissal. *See id.* (discussing the five factors for determining whether to dismiss for failure to comply with a court order, and noting that dismissal should not be disturbed absent "a definite and firm conviction that it was clearly outside the acceptable range of sanctions" (citations and internal quotation marks omitted)). Because we affirm on this basis, we do not address the parties' contentions concerning alternative grounds for dismissal.

We reject Shek's contentions concerning judicial bias.

We do not consider matters not specifically and distinctly raised and argued in the opening brief. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009) (per curiam).

Shek's pending motions and requests for judicial notice are denied.

**AFFIRMED.**