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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT ANTHONY GARCIA, Sr.,

Plaintiff - Appellant,

v.

ROBERT SOLOMON, Officer,

Defendant - Appellee.

No. 14-15591

D.C. No. 2:11-cv-02260-JAT

MEMORANDUM*

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

Submitted November 18, 2015**

Before: TASHIMA, OWENS, and FRIEDLAND, Circuit Judges.

Arizona state prisoner Robert Anthony Garcia, Sr., appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging excessive force during his arrest. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a district court's dismissal for failure to prosecute.

* 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).

Hernandez v. City of El Monte, 138 F.3d 393, 398 (9th Cir. 1998). We affirm.

The district court did not abuse its discretion by dismissing Garcia's action without prejudice after Garcia repeatedly refused to accept mail from defense counsel, despite being admonished for disregarding a court order and warned that he had "one further opportunity to proceed to trial." *See Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002) (setting forth factors for a district court to consider in determining whether to dismiss for failure to prosecute); *see also Ash v. Cvetkov*, 739 F.2d 493, 497 (9th Cir. 1984) ("[D]ismissal without prejudice is a more easily justified sanction for failure to prosecute.").

The district court did not abuse its discretion by denying Garcia's motion for reconsideration because Garcia failed to establish grounds for such relief. *See Sch. Dist. No. 1J, Multnomah Cty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (standard of review and grounds for reconsideration).

AFFIRMED.