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U.S. COURT OF APPEALS

## NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

HERNAN OROZCO,

Plaintiff - Appellant,

v.

EDMUND G. BROWN, Jr.,

Defendant - Appellee.

No. 15-16047

D.C. No. 2:14-cv-01404-MCE-  
CKD

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Morrison C. England, Jr., Chief Judge, Presiding

Submitted November 18, 2015\*\*

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

Hernan Orozco, a civil detainee at Coalinga State Hospital, appeals pro se from the district court's judgment dismissing his petition for writ of mandamus seeking transfer to a different prison hospital. We have jurisdiction under 28 U.S.C. § 1291, and we vacate and remand.

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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).

The district court converted Orozco's mandamus petition to a 42 U.S.C. § 1983 action, found it deficient, and granted leave to amend. Orozco instead filed another petition for writ of mandamus. We vacate the dismissal order and remand for the district court to provide Orozco with notice of the deficiencies in his § 1983 complaint and an opportunity to file a new § 1983 complaint with the benefit of that notice. *See Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir. 2012) (“[B]efore dismissing a pro se complaint the district court must provide the litigant with notice of the deficiencies in his complaint in order to ensure that the litigant uses the opportunity to amend effectively.” (citation and internal quotation marks omitted)).

To the extent Orozco contends the district court failed to comply with this court's writ of mandamus, we disagree.

**VACATED and REMANDED.**