

SEP 20 2016

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U.S. COURT OF APPEALS

## NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RONNIE STERLING LACY,

Plaintiff-Appellant,

v.

STATE OF CALIFORNIA,

Defendant-Appellee.

No. 15-16930

D.C. No. 2:15-cv-00639-TLN-  
KJN

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Troy L. Nunley, District Judge, Presiding

Submitted September 13, 2016\*\*

Before: HAWKINS, N.R. SMITH, and HURWITZ, Circuit Judges.

Ronnie Sterling Lacy, a California state prisoner, appeals pro se from the district court's judgment dismissing without prejudice his 42 U.S.C. § 1983 action alleging various constitutional violations. We have jurisdiction under 28 U.S.C.

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

§ 1291. We review for an abuse of discretion a dismissal for failure to comply with the district court's order to file an amended complaint. *Yourish v. Cal. Amplifier*, 191 F.3d 983, 989 (9th Cir. 1999). We affirm.

The district court did not abuse its discretion by dismissing Lacy's action without prejudice after the magistrate judge provided notice of the inadequacies of Lacy's complaint, and warned Lacy that failure to file an amended complaint would result in a recommendation of dismissal. *See id.* at 989-90 ("We will not disturb the trial court's dismissal without a definite and firm conviction that the court below committed a clear error of judgment in the conclusion it reached upon a weighing of the relevant factors." (citation and internal quotation marks omitted)).

Moreover, the district court did not abuse its discretion by dismissing Lacy's action on the basis that the instant action is duplicative of an earlier-filed action, *Lacy v. Folk*, No. 2:14-cv-02770-AC (E.D. Cal.). *See Adams v. Cal. Dep't of Health Servs.*, 487 F.3d 684, 689 (9th Cir. 2007) (actions are duplicative where "the causes of action and relief sought, as well as the parties or privies to the action, are the same"), *overruled on other grounds by Taylor v. Sturgell*, 553 U.S. 880, 904 (2008).

We do not consider allegations and arguments raised for the first time on

appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

All pending motions are denied.

**AFFIRMED.**