

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 19 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

CONSTANTINO BASILE,

No. 18-16332

Plaintiff-Appellant,

D.C. No. 2:15-cv-01883-RFB-VCF

v.

MEMORANDUM*

SOUTHWEST AIRLINES COMPANY,

Defendant-Appellee.

Appeal from the United States District Court
for the District of Nevada
Richard F. Boulware II, District Judge, Presiding

Submitted March 12, 2019**

Before: LEAVY, BEA, and N.R. SMITH, Circuit Judges.

Constantino Basile appeals pro se from the district court's judgment dismissing for failure to comply with a court order to submit to a medical examination under Federal Rule of Civil Procedure 35 his diversity action alleging defamation. We have jurisdiction under 28 U.S.C. § 1291. We review for an

* 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).

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 Basile's action after Basile failed to comply with a court order. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (discussing factors to be considered before dismissing a case for failure to comply with a court order and stating that a district court's dismissal should not be disturbed absent "a definite and firm conviction" that it "committed a clear error of judgment" (citations and internal quotation marks omitted)).

Because we affirm the district court's dismissal of Basile's action for failure to comply with a court order, we do not consider his challenges to the district court's interlocutory orders. *See Al-Torki v. Kaempfen*, 78 F.3d 1381, 1386 (9th Cir. 1996) ("[I]nterlocutory orders, generally appealable after final judgment, are not appealable after a dismissal for failure to prosecute, whether the failure to prosecute is purposeful or is a result of negligence or mistake." (citation and internal quotation marks omitted)).

Basile's motion to transmit exhibits (Docket Entry No. 3) is denied as unnecessary.

AFFIRMED.