

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 23 2021

FOR THE NINTH CIRCUIT

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

WILLIAM JAMES MATHEW WALLACE
II,

No. 20-55519

Plaintiff-Appellant,

D.C. No. 2:20-cv-01320-FMO-GJS

v.

MEMORANDUM*

DEPARTMENT OF CORRECTIONS AND
REHABILITATION; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Central District of California
Fernando M. Olguin, District Judge, Presiding

Submitted February 17, 2021**

Before: FERNANDEZ, BYBEE, and BADE, Circuit Judges

California state prisoner William James Mathew Wallace II appeals pro se from the district court's order dismissing his 42 U.S.C. § 1983 action for failure to comply with a court order. We have jurisdiction under 28 U.S.C. § 1291. We

* 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).

review for an 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 Wallace's action under Federal Rule of Civil Procedure 41(b) because Wallace failed to comply with the district court's order to amend his in forma pauperis application despite being warned that failure to comply would result in dismissal. *See id.* at 642-43 (discussing factors to consider in determining whether to dismiss under Rule 41(b) for failure to comply with a court order).

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

Wallace's motion to appoint counsel (Docket Entry No. 13) is denied.

AFFIRMED.