

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 27 2021

FOR THE NINTH CIRCUIT

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

PETER C. BENEDITH,

Plaintiff-Appellant,

v.

CUYAHOGA COUNTY, Ohio; et al.,

Defendants-Appellees.

No. 20-55053

D.C. No. 2:19-cv-09629-JFW-PJW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
John F. Walter, District Judge, Presiding

Submitted April 20, 2021**

Before: THOMAS, Chief Judge, TASHIMA and SILVERMAN, Circuit Judges.

Peter C. Benedith appeals pro se from the district court's order dismissing his diversity action alleging various state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion the district court's dismissal under its local rules. *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).

* 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).

We affirm.

The district court did not abuse its discretion in dismissing Benedith's claims against defendants Case Western Reserve University and The MetroHealth System, d/b/a MetroHealth Medical Center (improperly separately named and sued as Department of Medicine Metro Health Medical Center and Metro Health Medical Center) after Benedith failed to file an opposition to defendants' motions to dismiss as required by Local Rule 7-9. *See* C.D. Cal. L.R. 7-12 (providing that "failure to file any required document" may be deemed consent to the granting or denial of the motion); *Ghazali*, 46 F.3d at 53-54 (setting forth factors to be considered before dismissing an action for failure to follow the local rules, concluding that this court may review the record independently if the district court does not make explicit findings to show its consideration of the factors, and noting that pro se litigants are bound by the rules of procedure).

Because Benedith in his opening brief failed to raise specifically and distinctly any argument regarding the district court's sua sponte dismissal of the remaining defendant, Cuyahoga County, Benedith has waived any challenge to the dismissal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009); *Acosta-Huerta v. Estelle*, 7 F.3d 139, 144 (9th Cir. 1993) (issues not supported by argument in pro se appellant's opening brief are waived).

AFFIRMED.