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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>ALVARO QUEZADA,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>R. FISHER, Captain; et al.,</p> <p>Defendants - Appellees.</p> |
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No. 12-16824

D.C. No. 1:09-cv-01856-LJO-GBC

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O’Neill, District Judge, Presiding

Submitted May 13, 2014**

Before: CLIFTON, BEA, and WATFORD, Circuit Judges.

California state prisoner Alvaro Quezada appeals pro se from the district court’s judgment dismissing his 42 U.S.C. § 1983 action as duplicative. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion, *Adams v. Cal. Dep’t of Health Servs.*, 487 F.3d 684, 688 (9th Cir. 2007), and we reverse

* 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).*

and remand.

Dismissal of Quezada's action as duplicative of his action in *Quezada v. Hedgpeth*, No. 1-08-cv-01404-FRZ (E.D. Cal filed Sept. 19, 2008) was an abuse of discretion because the action does not involve the same parties. *See id.* at 688-89 (setting forth the standard for determining when a case is duplicative); *see also United States v. Bhatia*, 545 F.3d 757, 759-60 (9th Cir. 2008) (describing the circumstances in which a nonparty can be bound by a prior decision). Accordingly, we reverse and remand for further proceedings consistent with this disposition.

REVERSED and REMANDED.