

MAY 29 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROSS A. FIORANI,

Plaintiff - Appellant,

v.

HEWLETT-PACKARD CORP.; et al.,

Defendants - Appellees.

Nos. 13-17395
14-15178

D.C. No. 3:12-cv-01240-JST

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Jon S. Tigar, District Judge, Presiding

Submitted May 13, 2015**

Before: LEAVY, CALLAHAN, and M. SMITH, Circuit Judges.

Ross A. Fiorani appeals pro se from the district court's order denying his motion for leave to proceed in forma pauperis ("IFP") and its judgment dismissing his action alleging deceptive business practices for failure to comply with a court order. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of

* 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).

discretion. *O'Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990) (IFP); *Pagtalunan v. Galaza*, 291 F.3d 639, 640 (9th Cir. 2002) (dismissal for failure to comply with a court order). We affirm.

The district court did not abuse its discretion in denying Fiorani's motion for leave to proceed IFP because his application form was incomplete. *See United States v. McQuade*, 647 F.2d 938, 940 (9th Cir. 1981) (per curiam) (facts in support of poverty must be stated with some particularity, definiteness, and certainty).

The district court did not abuse its discretion by dismissing Fiorani's action with prejudice for failure to obey the court's order to comply with a pre-filing requirement imposed against him and to file a completed application to proceed IFP. *See Pagtalunan*, 291 F.3d at 642-43 (discussing the five factors for determining whether to dismiss for failure to comply with a court order); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992) (although dismissal is a harsh penalty, the district court's dismissal should not be disturbed unless there is "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" (citations and internal quotation marks omitted)).

Because we affirm on the basis of Fiorani's failure to comply with a court order, we do not consider Fiorani's contentions that his claims have merit.

We reject Fiorani's contentions that the district court demonstrated bias.

AFFIRMED.