

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 22 2019

FOR THE NINTH CIRCUIT

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

MICHAEL DENTON,

Plaintiff-Appellant,

v.

SHERIFF PASTOR, individually and in
their official capacities; et al.,

Defendants-Appellees.

No. 18-36000

D.C. No. 3:16-cv-05314-RJB

MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Robert J. Bryan, District Judge, Presiding

Submitted November 18, 2019**

Before: CANBY, TASHIMA, and CHRISTEN, Circuit Judges.

Michael Denton, a Washington state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging First and Fourteenth Amendment claims. We review for an abuse of discretion a dismissal for failure to comply with a court order under Federal Rule of Civil Procedure

* 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).

41(b) or pursuant to local rules. *Yourish v. California Amplifier*, 191 F.3d 983, 986 (9th Cir. 1999); *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995). We vacate and remand.

The district court dismissed Denton's action before developing a complete factual record on Denton's failure to appear at the pretrial conference and his alleged history of noncompliance with the court's orders. Moreover, in his opening brief, Denton explains that he could not attend the pretrial conference because prison officials told him that they could not open the cell door. We vacate the judgment and remand to the district court to consider Denton's explanation in the first instance, and to provide Denton with an opportunity to respond to defendants' contentions concerning other instances of noncompliance with the district court's orders.

VACATED and REMANDED.