

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 25 2022

FOR THE NINTH CIRCUIT

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

DEMETRIUS A. WILSON,

Plaintiff-Appellant,

v.

DAVID SHINN, Director; CENTURION HEALTH OF ADOC; STATE OF ARIZONA; PACHECO, Tucson Complex Warden Pacheco, sued in both individual and official capacity; NEIL, ADW, Whetstone Unit, sued in both individual and official capacity; JOSEFOWICZ, DW/Whetstone Unit, sued in both individual and official capacity; MARTINEZ, named as DW Martinez/Whetstone Unit, sued in both individual and official capacity; SUSANNA C. PINEDA, Honorable, Superior Court of Maricopa County, sued in both individual and official capacity; BRASCHLER, named as Assistant Deputy Warden Braschler, sued in both individual and official capacity; PULICICCHIO, Captain, sued in both individual and official capacity; ROJAS, SSU, C.O. II #5695, sued in both individual and official capacity; GALAVIZ, Sgt. #9368, sued in both individual and official capacity; WINN NGUYEN, #9591, sued in both individual and official capacity; F. MAJALCA, #9626, sued in both individual

No. 21-16180

D.C. No. 4:20-cv-00416-RCC

MEMORANDUM\*

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

and official capacity; M. JASSO, Lt., sued in both individual and official capacity; CHRISTINA L. AABERG, Disciplinary Hearing Officer at Arizona Department of Corrections, sued in both individual and official capacity,

Defendants-Appellees.

Appeal from the United States District Court  
for the District of Arizona  
Raner C. Collins, District Judge, Presiding

Submitted February 15, 2022\*\*  
San Francisco, California

Before: FERNANDEZ, TASHIMA, and FRIEDLAND, Circuit Judges.

Arizona state prisoner Demetrius A. Wilson appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging retaliation, deliberate indifference to serious medical needs, unconstitutional conditions of confinement, and due process claims. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a dismissal under Federal Rule of Civil Procedure 41(b) for failure to comply with a court order. *Pagtalunan v. Galaza*, 291 F.3d 639, 640 (9th Cir. 2002). We affirm.

The district court did not abuse its discretion in dismissing Wilson's action

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\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

because Wilson failed to respond timely to the district court's order to amend the complaint despite being warned failure to comply would result in dismissal. *See id.* at 642-43 (discussing factors to consider in determining whether to dismiss for failure to comply with a court order and noting that dismissal should not be disturbed absent "a definite and firm conviction" that the district court "committed a clear error of judgment" (citation and internal quotation marks omitted)).

We do not consider Wilson's contentions relating to his motion for reconsideration because that issue is outside the scope of this appeal.

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).

All pending requests are denied.

**AFFIRMED.**