

MAY 30 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MIGUEL E. DIAZ,

Plaintiff - Appellant,

v.

GARY SWARTHOUT, Warden; et al.,

Defendants - Appellees.

No. 13-16318

D.C. 2:12-cv-00727-MCE-EFB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Morrison C. England, Jr., Chief Judge, Presiding

Submitted May 13, 2014**

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

California state prisoner Miguel E. Diaz appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging retaliation and discrimination claims. We have jurisdiction under 28 U.S.C. § 1291. We review

* 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).

for an abuse of discretion a dismissal for failure to comply with a court order, *Pagtalunan v. Galaza*, 291 F.3d 639, 640 (9th Cir. 2002), and we affirm.

The district court did not abuse its discretion by dismissing Diaz's action for failing to comply with the court's order either to effect timely service upon the two defendants that survived the court's screening under 28 U.S.C. § 1915A, or file a timely amended complaint, despite being warned that the failure to do so could result in dismissal. *See id.* at 642-43 (discussing factors relevant to dismissal for failure to comply with a court order).

The district court did not abuse its discretion by denying Diaz's motions for an extension of time because the court had already granted Diaz one extension and Diaz failed to establish good cause for granting further extensions. *See Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1258-60 (9th Cir. 2010) (setting forth standard of review for denial of extension of time and good cause requirement under Fed. R. Civ. P. 6(b)).

AFFIRMED.