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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KANG-SHEN CHEN, an individual,

Plaintiff - Appellant,

v.

JERRY BROWN; et al.,

Defendants - Appellees.

No. 13-56592

D.C. No. 8:12-cv-02182-R-AJW

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Manuel L. Real, District Judge, Presiding

Submitted November 18, 2015**

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

Kang-Shen Chen appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging various federal claims. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion.

Pagtalunan v. Galaza, 291 F.3d 639, 640 (9th Cir. 2002) (dismissal for failure to

* 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).

comply with a court order); *Hernandez v. City of El Monte*, 138 F.3d 393, 398 (9th Cir. 1998) (dismissal for failure to prosecute). We affirm.

The district court did not abuse its discretion by dismissing Chen's action with prejudice after Chen's wife, a non-party, requested an indefinite stay and failed to take steps to be appointed as Chen's guardian or obtain counsel, despite being admonished of the need to do so if Chen was incapable of litigating on his own behalf and warned of the possibility of dismissal. *See Pagtalunan*, 291 F.3d at 642-43 (setting forth factors for determining whether to dismiss for failure to prosecute or to comply with a court order); *see also Hernandez*, 138 F.3d at 400-01 (a presumption of prejudice arises from a plaintiff's failure to prosecute or from an unreasonable delay).

AFFIRMED.