

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 28 2021

FOR THE NINTH CIRCUIT

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

MYCHAEL TYRONE SHANNON,

No. 20-16133

Plaintiff-Appellant,

D.C. No. 2:18-cv-00161-WBS-EFB

v.

MEMORANDUM*

IKEGBU, Chief Physician & Surgeon; S.
GATES, Chief of Appeals,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, District Judge, Presiding

Submitted April 20, 2021**

Before: THOMAS, Chief Judge, TASHIMA and SILVERMAN, Circuit Judges.

California state prisoner Mychael Tyrone Shannon appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging constitutional violations. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a district court's dismissal for failure to comply

* 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).

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 by dismissing Shannon's action under Federal Rule of Civil Procedure 41(b) because Shannon failed to advise the district court as to whether he was electing to proceed with his cognizable claims or file an amended complaint, despite being warned that failure to do so would result in dismissal. *See id.* at 640, 642-43 (discussing factors to consider in determining whether to dismiss under Rule 41(b) for failure to comply with a court order; this court may review the record independently to determine if the district court abused its discretion).

We do not consider allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.