

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 27 2015

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

FRED F. ORELLANA,

Plaintiff - Appellant,

v.

S. IRIZARY; et al.,

Defendants - Appellees.

No. 14-16425

D.C. No. 2:14-cv-00459-CKD

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Carolyn K. Delaney, Magistrate Judge, Presiding\*\*

Submitted March 10, 2015\*\*\*

Before: FARRIS, WARDLAW, and PAEZ, Circuit Judges.

Fred F. Orellana, a California state prisoner, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action without prejudice for

---

\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* Orellana consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

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

failure to comply with a court order. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). We affirm.

The district court did not abuse its discretion in dismissing Orellana's action after warning him that failure to file a second amended complaint would result in dismissal of his action, and providing him with ample time to do so. *See id.* at 1060-61 (although a harsh penalty, the district court's dismissal should not be disturbed unless there is a "definite and firm conviction that the court below committed a clear error of judgment in the conclusion it reached upon a weighing of the relevant factors." (citations and internal quotations omitted)).

Because we affirm on the basis of Orellana's failure to comply with a court order, we do not address Orellana's contentions concerning the merits of his claims.

**AFFIRMED.**