

JUN 23 2016

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

AARON RAISER,

Plaintiff - Appellant,

v.

CITY OF UPLAND,

Defendant - Appellee.

No. 14-55615

D.C. No. 5:11-cv-00465-RGK-RZ

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
R. Gary Klausner, District Judge, Presiding

Submitted June 14, 2016\*\*

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

Aaron Raiser appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging various violations arising out of his encounters with the Upland Police Department. We have jurisdiction under 28

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\* 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 and denies Raiser's request for oral argument, set forth in his opening and reply briefs. *See* Fed. R. App. P. 34(a)(2).

U.S.C. § 1291. We review for an abuse of discretion a dismissal for failure to prosecute. *Al-Torki v. Kaempfen*, 78 F.3d 1381, 1384 (9th Cir. 1996). We affirm.

Raiser fails to challenge the district court's dismissal of his action for failure to prosecute, and has therefore waived any such challenge. *See Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999) (“[O]n appeal, arguments not raised by a party in its opening brief are deemed waived.”). Because Raiser's action was dismissed for failure to prosecute, we do not consider his challenges to the district court's interlocutory orders denying his motion for relief from the order denying his application to proceed in forma pauperis, or his motion to change the filing date of his complaint. *See Al-Torki*, 78 F.3d at 1386 (if the dismissal is for failure to prosecute, interlocutory orders are not appealable regardless of whether the failure to prosecute was purposeful or the result of negligence or mistake).

We reject as without merit Raiser's contention regarding the district court's alleged lack of jurisdiction over his complaint following his payment of the filing fee.

Raiser's motion for miscellaneous relief, filed on April 29, 2015, is denied.

**AFFIRMED.**