

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 17 2020

FOR THE NINTH CIRCUIT

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

NICHOLAS PATRICK,

No. 18-17312

Plaintiff-Appellant,

D.C. No. 1:16-cv-00239-LJO-JDP

v.

MEMORANDUM*

REYNAGA; et al.,

Defendants-Appellees,

and

F. FELECIANO; et al.,

Defendants.

Appeal from the United States District Court
for the Eastern District of California
Lawrence J. O'Neill, District Judge, Presiding

Submitted July 14, 2020**

Before: CANBY, FRIEDLAND, and R. NELSON, Circuit Judges.

* 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).

Former California state prisoner Nicholas Patrick appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging First Amendment violations. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a dismissal for failure to prosecute or failure to comply with a court order. *Pagtalunan v. Galaza*, 291 F.3d 639, 640 (9th Cir. 2002) (failure to comply with court order); *Al-Torki v. Kaempfen*, 78 F.3d 1381, 1384 (9th Cir. 1996) (failure to prosecute). We affirm.

The district court did not abuse its discretion by dismissing Patrick's action after Patrick failed to comply with the district court's order to respond to or oppose defendants' motion to dismiss. *See Pagtalunan*, 291 F.3d at 642 (discussing factors to be considered before dismissing an action for failure to prosecute or failure to comply with a court order); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1261 (9th Cir. 1992) ("[I]t is not required that the district court make explicit findings in order to show that it has considered these factors . . . we may review the record independently to determine if the district court has abused its discretion").

AFFIRMED.