

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 27 2021

FOR THE NINTH CIRCUIT

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

ABELFATAH ELLAWENDY,

No. 20-17376

Plaintiff-Appellant,

D.C. No. 5:19-cv-08417-LHK

v.

MEMORANDUM*

CSUMB POLICE DEPARTMENT; et al.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of California
Lucy H. Koh, District Judge, Presiding

Submitted July 19, 2021**

Before: SCHROEDER, SILVERMAN, and MURGUIA, Circuit Judges.

AbelFatah Ellawendy appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action alleging violations of the Fourth, Fifth, and Fourteenth Amendments. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a sua sponte dismissal for failure to prosecute.

* 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).

Oliva v. Sullivan, 958 F.2d 272, 274 (9th Cir. 1992). We affirm.

The district court did not abuse its discretion by dismissing Ellawendy's action for failure to prosecute after Ellawendy failed to file his fourth amended complaint, despite being warned that failure to comply with the court's orders may result in dismissal. *See Pagtalunan v. Galaza*, 291 F.3d 639, 640-43 (9th Cir. 2002) (discussing factors to be considered before dismissing a case for failure to prosecute; a district court's dismissal should not be disturbed absent "a definite and firm conviction" that it "committed a clear error of judgment" (citations and internal quotation marks omitted)).

We reject as unsupported by the record Ellawendy's contention that the district court failed to serve him with the magistrate judge's third screening order or report and recommendation.

AFFIRMED.