

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 20 2021

FOR THE NINTH CIRCUIT

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

ANTHONY X. SMITH,

Plaintiff-Appellant,

v.

PAROLE BOARD, at High Desert State
Prison; et al.,

Defendants-Appellees.

No. 20-17474

D.C. No. 2:19-cv-02454-TLN-DB

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Troy L. Nunley, District Judge, Presiding

Submitted October 12, 2021**

Before: TALLMAN, RAWLINSON, and BUMATAY, Circuit Judges.

California state prisoner Anthony X. Smith appeals pro se from the district court's judgment dismissing for failure to comply with a court order his 42 U.S.C. § 1983 action alleging constitutional claims. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Ferdik v. Bonzelet*, 963 F.2d 1258,

* 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).

1260 (9th Cir. 1992). We affirm.

The district court did not abuse its discretion in dismissing Smith's action because Smith failed to comply with the district court's order to file a second amended complaint despite a warning that failure to do so would result in dismissal. *See id.* at 1260-63 (setting forth factors for determining whether a pro se action should be dismissed under Fed. R. Civ. P. Rule 41(b) and requiring "a definite and firm conviction" that the district court "committed a clear error of judgment" in order to overturn such a dismissal (citation and internal quotation marks omitted)).

Smith's motion to certify questions to the Supreme Court (Docket Entry No. 5) is denied.

AFFIRMED.