

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 24 2022

FOR THE NINTH CIRCUIT

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

MICHAEL ACHILLES FRIES,

No. 19-16827

Plaintiff-Appellant,

D.C. No. 1:18-cv-00652-LJO-SKO

v.

MEMORANDUM*

KERNAN; PFAIFFER; J. McALISTER; D.
SELLERS; R. TINSLEY; FAULKNER; C.
GONZALES; A. LUCAS; C. K. CHEN; R.
LOZOVVOY,

Defendants-Appellees.

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

Submitted June 15, 2022**

Before: SILVERMAN, WATFORD, and FORREST, Circuit Judges.

California state prisoner Michael Achilles Fries appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 action for failure to prosecute and failure to comply with court orders. We have jurisdiction under 28

* 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).

U.S.C. § 1291. We review for an abuse of discretion. *Pagtalunan v. Galaza*, 291 F.3d 639, 640 (9th Cir. 2002). We affirm.

The district court did not abuse its discretion by dismissing Fries's action after Fries failed to file an amended complaint as ordered or inform the court of an affirmative choice not to amend. *See id.* at 642-43 (discussing factors to consider in determining whether to dismiss under Fed. R. Civ. P. 41(b) for failure to comply with a court order; this court may review the record independently to determine if the district court abused its discretion).

The district court did not abuse its discretion by denying Fries's request for an extension of time because Fries failed to establish good cause for granting the extension. *See Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1258-60 (9th Cir. 2010) (setting forth standard of review for denial of extension of time and good cause requirement under Fed. R. Civ. P. 6(b)).

Fries's motion for waiver of fees and summary judgment (Docket Entry No. 5) is denied.

AFFIRMED.