

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 18 2023

FOR THE NINTH CIRCUIT

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

MICHAEL HERNANDEZ GONZALEZ,

No. 22-15905

Plaintiff-Appellant,

D.C. No. 1:19-cv-01447-DAD-BAK

v.

MEMORANDUM*

H. PEREZ; M. MIMS, Sheriff of Fresno
County at Fresno County Jail; SHARP,
Officer,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of California
Dale A. Drozd, District Judge, Presiding

Submitted August 15, 2023**

Before: TASHIMA, S.R. THOMAS, and FORREST, Circuit Judges.

California state prisoner Michael Hernandez Gonzalez appeals pro se from the district court's judgment dismissing for failure to comply with court orders his 42 U.S.C. § 1983 action alleging excessive force and failure to protect while

* 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).

Gonzalez was a pretrial detainee. We have jurisdiction under 28 U.S.C § 1291.

We review for abuse of discretion, *Pagtalunan v. Galaza*, 291 F.3d 639, 640 (9th Cir. 2002), and we affirm.

The district court did not abuse its discretion by dismissing Gonzalez's action because, despite multiple, explicit warnings, Gonzalez failed to comply with orders instructing him to cease filing duplicative and baseless motions. *See id.* at 642-43 (discussing the five factors for determining whether to dismiss under Fed. R. Civ. P. 41(b) for failure to comply with a court order); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992) (although dismissal is a harsh penalty, the district court's dismissal should not be disturbed absent "a definite and firm conviction" that it "committed a clear error of judgment" (citation and internal quotation marks omitted)).

All pending motions and requests are denied.

AFFIRMED.