

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAY 28 2025

FOR THE NINTH CIRCUIT

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

MARLENE FINANDER,

Plaintiff - Appellant,

v.

MORENO VALLEY UNIFIED
DISTRICT; DOES, I - X,

Defendants - Appellees.

No. 23-3204

D.C. No. 5:23-cv-00774-JGB-SP

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Jesus G. Bernal, District Judge, Presiding

Submitted May 21, 2025**

Before: SILVERMAN, LEE, and VANDYKE, Circuit Judges.

Marlene Finander appeals pro se from the district court's judgment dismissing her employment action alleging federal and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a

* 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).

dismissal under Federal Rule of Civil Procedure 41(b). *Pagtalunan v. Galaza*, 291 F.3d 639, 640 (9th Cir. 2002). We affirm.

The district court did not abuse its discretion in dismissing Finander’s action for failure to prosecute because Finander failed to file her amended complaint or serve defendants in a proper manner, despite the district court’s multiple warnings that failure to comply with the court’s orders would result in dismissal. *See* Fed. R. Civ. P. 41(b) (a district court may dismiss an action “[i]f the plaintiff fails to prosecute or to comply with these rules or a court order”); *Pagtalunan*, 291 F.3d at 640-43 (discussing factors to be considered before dismissing a case for failure to prosecute or failure to comply with a court order and explaining that dismissal should not be disturbed absent “a definite and firm conviction” that the district court “committed a clear error of judgment” (citation and internal quotation marks omitted)); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1261 (9th Cir. 1992) (explaining that this court may review the record independently if the district court does not make explicit findings to show its consideration of the factors); *see also* Fed. R. Civ. P. 4(a)-(c) (setting forth requirements for service); C.D. Cal. R. 15-1 (setting forth requirements for filing amended pleadings).

We do not consider allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

To the extent that Finander requests to waive oral argument (Docket Entry

No. 5), her request is granted. All other pending motions and requests are denied.

AFFIRMED.