

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 27 2025

FOR THE NINTH CIRCUIT

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

MARK ALAN CHAR,

Plaintiff - Appellant,

v.

MAURA TRESCH; et al.,

Defendants - Appellees.

No. 24-868

D.C. No. 1:23-cv-00402-DKW-WRP

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
Derrick Kahala Watson, District Judge, Presiding

Submitted June 18, 2025**

Before: CANBY, S.R. THOMAS, and SUNG, Circuit Judges.

Mark Alan Char, a Hawaii state prisoner, appeals pro se from the district court's judgment dismissing his action alleging federal and state law claims arising from his incarceration. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion the district court's dismissal under Federal Rule of Civil

* 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).

Procedure 41(b). *Pagtalunan v. Galaza*, 291 F.3d 639, 640 (9th Cir. 2002). We affirm.

The district court did not abuse its discretion by dismissing Char's action because Char failed to file an amended complaint despite receiving an extension of time and being warned that failure to do so could result in immediate dismissal. *See* Fed. R. Civ. P. 41(b) (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; 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 Char's contention that he voluntarily dismissed his action.

Char's motion to appoint counsel (Docket Entry No. 11) is denied.

AFFIRMED.