

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

NOV 14 2025

FOR THE NINTH CIRCUIT

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

JUAN MARQUIS HOLIDAY,

Plaintiff - Appellant,

v.

UNKNOWN OFFICER OR OFFICERS OF
THE SAN DIEGO POLICE
DEPARTMENT,

Defendants - Appellees.

No. 24-3840

D.C. No. 3:23-cv-01069-AGS-MMP

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Andrew George Schopler, District Judge, Presiding

Submitted November 12, 2025**

Before: SCHROEDER, RAWLINSON, and NGUYEN, Circuit Judges.

Juan Marquis Holiday appeals pro se from the district court's order dismissing his 42 U.S.C. § 1983 action alleging violations of his Fourth Amendment rights. We have jurisdiction under 28 U.S.C. § 1291. We review for

* 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).

an abuse of discretion a dismissal for failure to prosecute. *Al-Torki v. Kaempfen*, 78 F.3d 1381, 1384 (9th Cir. 1996). We affirm.

The district court did not abuse its discretion by dismissing Holiday’s action for failure to prosecute because Holiday failed to respond to the district court’s order requiring Holiday to file an amended complaint. *See Edwards v. Marin Park, Inc.*, 356 F.3d 1058, 1065 (9th Cir. 2004) (“The failure of the plaintiff eventually to respond to the court’s ultimatum—either by amending the complaint or by indicating to the court that [he] will not do so—is properly met with the sanction of a Rule 41(b) dismissal.”); *Al-Torki*, 78 F.3d at 1384 (discussing the five factors for determining whether to dismiss under Fed. R. Civ. P. 41(b) for failure to prosecute).

In light of our disposition, we do not consider Holiday’s contentions challenging the district court’s screening order. *See Al-Torki*, 78 F.3d at 1386 (holding that interlocutory orders are not appealable after a dismissal for failure to prosecute, whether the failure to prosecute is purposeful or a result of negligence or mistake).

AFFIRMED.