

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 3 2026

FOR THE NINTH CIRCUIT

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

AELLIS D'ARTISAN,

Plaintiff - Appellant,

v.

KELLI MARIE CONNOR, DBA as Kelli
Marie Photography; DBA as Boudoir by
Kelli; JILL LEUER; ALICIA MILLER;
ERIC MILLER; JEFFREY BENNION;
SARA PASTRANO; GARRETT
STRATTON; THERESA STRATTON
GARRETT; COREY ANN
BALAZOWICH; JOHN DOES, 1-100,
inclusive; JANE DOES, 1-100, inclusive,

Defendants - Appellees.

No. 25-2624

D.C. No. 3:24-cv-00017-JO-DEB

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Jinsook Ohta, District Judge, Presiding

Submitted July 29, 2026**

Before: McKEOWN, TALLMAN, and MENDOZA, JR., Circuit Judges.

* 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).

Aellis D'Artisan appeals pro se from the district court's judgment dismissing his action alleging Lanham Act and state law claims. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a dismissal under Federal Rule of Civil Procedure 41(b) for failure to comply with a court order to amend the complaint. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). We vacate and remand.

The district court dismissed with prejudice D'Artisan's action because D'Artisan failed to comply with an order to file an amended complaint within two weeks of the order. However, based on D'Artisan's notice to the court with respect to his inability to receive electronic service due to imprisonment, his argument on appeal that he did not receive the order in prison, and the possibility of alternatives to dismissal with prejudice, there appear to be sufficient grounds to afford D'Artisan another opportunity to comply with the order. *See Pagtalunan v. Galaza*, 291 F.3d 639, 642-43 (9th Cir. 2002) (explaining that the plaintiff's reason for defaulting is relevant to whether the delay was unreasonable); *Ferdik*, 963 F.2d at 1260-61 (setting forth factors to consider in determining whether to dismiss under Rule 41(b), including the availability of alternatives to dismissal). We vacate the judgment and remand for further proceedings.

VACATED and REMANDED.