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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 JUSTIN COYLE,
12 Booking #15746082,
13 Patient #170-207-5,

Plaintiff,

14 vs.

15 SAN DIEGO SHERIFF'S DEPT., et al.,

16 Defendants.
17

Case No.: 3:16-cv-00667-GPC-JLB

**ORDER DISMISSING CIVIL
ACTION FOR FAILING TO
STATE A CLAIM PURSUANT
TO 28 U.S.C. § 1915(e)(2)(B)(ii) AND
§ 1915A(b)(1) AND FOR FAILING
TO COMPLY WITH COURT
ORDER REQUIRING
AMENDMENT**

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19 Plaintiff, Justin Coyle, was formerly detained at George Bailey Detention Facility
20 in San Diego, but has since been transferred to Patton State Hospital (ECF No. 4). He has
21 been granted leave to proceed in forma pauperis, but his complaint was dismissed with
22 leave to amend because it failed to state a claim. Because Plaintiff has not filed an
23 amended complaint, the Court now dismisses his case.

24 **Background**

25 On June 28, 2016, the Court screened Plaintiff's complaint and dismissed it in its
26 entirety pursuant to 28 U.S.C. § 1915(e)(2) and § 1915A(b) (ECF No. 3). Plaintiff was
27 provided an explanation of his pleading deficiencies, and granted an opportunity to fix
28 them. *See id.* at 5-12. Plaintiff was given 45 days, or until approximately August 12,

1 2016, to file his amended complaint, and warned that if he failed to do so, his case would
2 be dismissed without further leave to amend. (*Id.* at 12, citing *Lira v. Herrera*, 427 F.3d
3 1164, 1169 (9th Cir. 2005) (“If a plaintiff does not take advantage of the opportunity to
4 fix his complaint, a district court may convert the dismissal of the complaint into a
5 dismissal of the entire action.”)).

6 “The failure of the plaintiff eventually to respond to the court’s ultimatum—either
7 by amending the complaint or by indicating to the court that it will not do so—is properly
8 met with the sanction of a Rule 41(b) dismissal.” *Edwards v. Marin Park*, 356 F.3d 1058,
9 1065 (9th Cir. 2004).

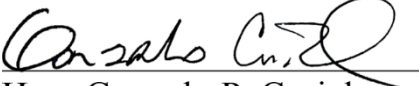
10 Conclusion

11 The time for amendment has now passed, and Plaintiff has not filed an amended
12 complaint, or requested any extension of time in which to do so. Therefore, the Court
13 dismisses this civil action in its entirety without further leave to amend based on
14 Plaintiff’s failure to state a claim upon which § 1983 relief can be granted pursuant to 28
15 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1), and his failure to prosecute pursuant to
16 FED. R. CIV. P. 41(b) in compliance with the Court’s June 28, 2016 Order.

17 The Court further certifies that an IFP appeal would not be taken in good faith
18 pursuant to 28 U.S.C. § 1915(a)(3) and directs the Clerk to enter a final judgment of
19 dismissal and to close the file.

20 IT IS SO ORDERED.

21 Dated: September 26, 2016

22 
23 Hon. Gonzalo P. Curiel
24 United States District Judge
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