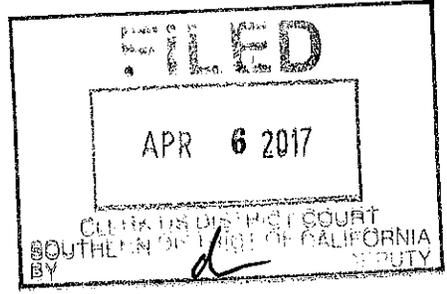


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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

JASON HOLLINGSWORTH,  
CDCR #AX-5810,  
  
Plaintiff,  
  
vs.  
  
CALIFORNIA DEP'T OF  
CORRECTIONS, et al.,  
  
Defendants.

Case No. 3:16-cv-01426-WQH-BLM

**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 PROSECUTE IN COMPLIANCE  
WITH COURT ORDER REQUIRING  
AMENDMENT**

Jason Hollingsworth ("Plaintiff"), proceeding pro se, and while incarcerated at Richard J. Donovan Correctional Facility in San Diego, California, initially filed this civil rights action pursuant to 42 U.S.C. § 1983 on June 6, 2016, claiming that prison officials were in violation of the "Davis Bacon Act of 1931" and violated his right to equal protection under the laws. (*See Compl.* at 4-6.)

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1 **I. Procedural Background**

2 On August 5, 2016, the Court granted Plaintiff leave to proceed in forma pauperis  
3 (“IFP”), but dismissed his Complaint sua sponte for failing to state a claim upon which  
4 relief can be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and § 1915A(b)(1). (ECF  
5 No. 5). The Court granted Plaintiff 45 days in which to file an Amended Complaint that  
6 cured these pleading deficiencies. (*Id.* at 8-9; *see Lopez v. Smith*, 203 F.3d 1122, 1130  
7 (9th Cir. 2000) (en banc) (noting that leave to amend should be granted when complaint  
8 is dismissed sua sponte under § 1915 “if it appears at all possible that the plaintiff can  
9 correct the defect.”).)

10 Plaintiff filed his First Amended Complaint (“FAC”) on August 24, 2016. (ECF  
11 No. 6). However, the Court once again found dismissal of the entire action appropriate  
12 on the grounds that he had failed to state a claim upon which relief could be granted  
13 pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and § 1915A(b)(1). (ECF No. 7). Again, the  
14 Court granted Plaintiff 45 days in which to file an Amended Complaint that cured these  
15 pleading deficiencies. (*Id.* at 6.)

16 More than 45 days has since passed since the Court’s February 2, 2017 Order.  
17 Plaintiff has filed no Amended Complaint; nor has he requested an extension of time in  
18 which to do so. *See Edwards v. Marin Park*, 356 F.3d 1058, 1065 (9th Cir. 2004) (“The  
19 failure of the plaintiff eventually to respond to the court’s ultimatum—either by amending  
20 the complaint or by indicating to the court that [he] will not do so—is properly met with  
21 the sanction of a Rule 41(b) dismissal.”).

22 **II. Conclusion and Order**

23 Accordingly, the Court **DISMISSES** this civil action in its entirety without further  
24 leave to amend based on Plaintiff’s failure to state a claim upon which § 1983 relief can  
25 be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and § 1915A(b)(1), and his failure to  
26 prosecute pursuant to FED. R. CIV. P. 41(b) in compliance with the Court’s February 2,  
27 2017 Order (ECF No. 7).

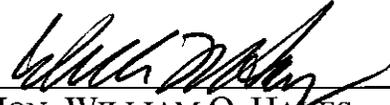
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1 The Court further **CERTIFIES** that an IFP appeal would not be taken in good  
2 faith pursuant to 28 U.S.C. § 1915(a)(3) and **DIRECTS** the Clerk to enter a final  
3 judgment of dismissal and to close the file.

4 **IT IS SO ORDERED.**

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6 Dated:

4/5/17

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9 HON. WILLIAM Q. HAYES  
10 United States District Judge  
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