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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 KYLE JAMES,
12 CDCR #BB-1457,

13 Plaintiff,

14 vs.

15 UNITED STATES MARSHALS
16 SERVICE AGENTS, K. LANEY;
17 BROWN; JOHN BUCKLEY; JOHN
18 DOES; UNITED STATES OF
19 AMERICA. UNITED STATES
20 MARSHALS SERVICE ,

21 Defendants.

Case No. 3:17-cv-0414-WQH-BLM

**ORDER DISMISSING CIVIL
ACTION FOR FAILING TO
STATE A CLAIM PURSUANT
TO 28 U.S.C. § 1915A(b)(1) AND FOR
FAILING TO PROSECUTE IN
COMPLIANCE WITH COURT
ORDER REQUIRING AMENDMENT**

22 Kyle James (“Plaintiff”), proceeding pro se, and currently incarcerated at Corcoran
23 State Prison located in Corcoran, California, initially filed this civil rights action pursuant
24 to 42 U.S.C. § 1983 on February 24, 2017. (ECF No. 1.)

25 **I. Procedural Background**

26 On August 18, 2017, the Court dismissed his Complaint sua sponte for failing to
27 state a claim upon which relief can be granted pursuant to 28 U.S.C. § 1915A(b)(1) and
28 denied his Motion to Proceed *In Forma Pauperis* as moot. (ECF No. 18). The Court
granted Plaintiff 45 days in which to file an Amended Complaint that cured these

1 pleading deficiencies. (*Id.* at 7-8; *see Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000)
2 (en banc) (noting that leave to amend should be granted when complaint is dismissed sua
3 sponte under § 1915 “if it appears at all possible that the plaintiff can correct the
4 defect.”).)

5 That time has since passed and Plaintiff has filed no Amended Complaint; nor has
6 he requested an extension of time in which to do so. *See Edwards v. Marin Park*, 356
7 F.3d 1058, 1065 (9th Cir. 2004) (“The failure of the plaintiff eventually to respond to the
8 court’s ultimatum—either by amending the complaint or by indicating to the court that
9 [he] will not do so—is properly met with the sanction of a Rule 41(b) dismissal.”).

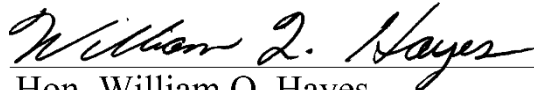
10 **II. Conclusion and Order**

11 Accordingly, the Court **DISMISSES** this civil action in its entirety without further
12 leave to amend based on Plaintiff’s failure to state a claim upon which § 1983 relief can
13 be granted pursuant to 28 U.S.C. § 1915A(b)(1), and his failure to prosecute pursuant to
14 FED. R. CIV. P. 41(b) in compliance with the Court’s August 8, 2017 Order (ECF No. 18).

15 The Clerk of Court shall close the file.

16 **IT IS SO ORDERED.**

17 Dated: October 16, 2017

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19 Hon. William Q. Hayes
20 United States District Court
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