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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 SEDRIC EUGENE JOHNSON,
12 AZ-2648

13 Plaintiff,

14 vs.

15 JOHN DOE, et al.,

16 Defendants.
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Case No. 3:17-cv-0889-LAB-JLB

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

20 **I. Procedural History**

21 Sedric Eugene Johnson (“Plaintiff”), is proceeding pro se in this civil action, filed
22 a civil rights Complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1.) At the time he filed
23 his Complaint, Plaintiff did not prepay the \$400 filing fee mandated by 28 U.S.C.
24 § 1914(a); instead, he filed a Motion to proceed *in forma pauperis* (“IFP”) pursuant to 28
25 U.S.C. § 1915(a) (ECF No. 2).

26 On September 12, 2017, the Court granted Plaintiff leave to proceed IFP, denied
27 his request for counsel, and conducted its mandatory initial screening of Plaintiff’s
28 Complaint. (ECF No. 14 at 7-8.) The Court dismissed Plaintiff’s Complaint sua sponte

1 for failing to state a claim pursuant to 28 U.S.C. § 1915(e)(2) and § 1915A(b) (*Id.*). The
2 Court granted Plaintiff forty five (45) days leave in which to file an Amended Complaint
3 that addressed the deficiencies of pleading it identified. (*Id.*). *See also Lopez v. Smith*,
4 203 F.3d 1122, 1130-31 (9th Cir. 2000) (en banc) (“[A] district court should grant leave
5 to amend even if no request to amend the pleading was made, unless it determines that
6 the pleading could not possibly be cured.”) (citations omitted).

7 On October 5, 2017, Plaintiff filed his First Amended Complaint (“FAC”). (ECF
8 No. 18.) Once again, the Court found that Plaintiff’s FAC failed to state a claim upon
9 which relief could be granted and dismissed the entire action with thirty (30) days leave
10 to file an amended pleading. (ECF No. 19 at 6-7.)

11 That time has since passed and Plaintiff has failed to file an Amended Complaint.
12 “The failure of the plaintiff eventually to respond to the court’s ultimatum—either by
13 amending the complaint or by indicating to the court that [he] will not do so—is properly
14 met with the sanction of a Rule 41(b) dismissal.” *Edwards v. Marin Park*, 356 F.3d 1058,
15 1065 (9th Cir. 2004).

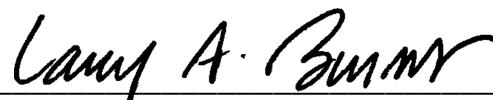
16 **II. Conclusion and Order**

17 Accordingly, the Court **DISMISSES** this civil action in its entirety without
18 prejudice based on Plaintiff’s failure to state a claim upon which § 1983 relief can be
19 granted pursuant to 28 U.S.C. § 1915(e)(2)(B) and § 1915A(b), and his failure to
20 prosecute pursuant to FED. R. CIV. P. 41(b) in compliance with the Court’s November 28,
21 2017 Order.

22 The Clerk of Court is directed to enter a final judgment of dismissal and close the
23 file.

24 **IT IS SO ORDERED.**

25
26 Dated: January 12, 2018



27 HON. LARRY ALAN BURNS
28 United States District Judge