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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

RICHARD PAUL RODDY II,  
Inmate Booking No. 13717172  
  
Plaintiff,  
  
vs.  
  
OFFICE OF THE DISTRICT  
ATTORNEY; COURT OF APPEAL,  
FOURTH DISTRICT; APPELLATE  
DEFENDERS, INC.; ROBERT F.  
O'NEIL,  
  
Defendants.

Case No. 3:17-cv-1964-LAB-PCL

**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**

**I. Procedural History**

Richard Paul Roddy, II, (“Plaintiff”), is proceeding pro se in this civil action, filed a civil rights Complaint pursuant to 42 U.S.C. § 1983. (ECF No. 1.) Plaintiff did not prepay the \$400 filing fee mandated by 28 U.S.C. § 1914(a); instead, he filed a Motion to proceed *in forma pauperis* (“IFP”) pursuant to 28 U.S.C. § 1915(a) (ECF No. 4).

On November 28, 2017, the Court granted Plaintiff leave to proceed IFP and conducted its mandatory initial screening of Plaintiff’s Complaint. (ECF No. 5 at 7-8.) The Court dismissed Plaintiff’s Complaint sua sponte for failing to state a claim pursuant to 28 U.S.C. § 1915(e)(2) and § 1915A(b) (*Id.*). The Court granted Plaintiff thirty (30)

1 days leave in which to file an Amended Complaint that addressed the deficiencies of  
2 pleading it identified. (*Id.*). *See also Lopez v. Smith*, 203 F.3d 1122, 1130-31 (9th Cir.  
3 2000) (en banc) (“[A] district court should grant leave to amend even if no request to  
4 amend the pleading was made, unless it determines that the pleading could not possibly  
5 be cured.”) (citations omitted).

6 That time has since passed and Plaintiff has failed to file an Amended Complaint.  
7 “The failure of the plaintiff eventually to respond to the court’s ultimatum—either by  
8 amending the complaint or by indicating to the court that [he] will not do so—is properly  
9 met with the sanction of a Rule 41(b) dismissal.” *Edwards v. Marin Park*, 356 F.3d 1058,  
10 1065 (9th Cir. 2004).

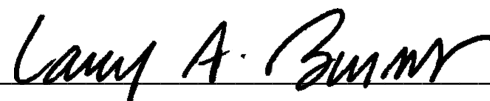
## 11 **II. Conclusion and Order**

12 Accordingly, the Court **DISMISSES** this civil action in its entirety without  
13 prejudice based on Plaintiff’s failure to state a claim upon which § 1983 relief can be  
14 granted pursuant to 28 U.S.C. § 1915(e)(2)(B) and § 1915A(b), and his failure to  
15 prosecute pursuant to FED. R. CIV. P. 41(b) in compliance with the Court’s November 28,  
16 2017 Order.

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

19 **IT IS SO ORDERED.**

20  
21 Dated: February 20, 2018

22 

23 HON. LARRY ALAN BURNS  
24 United States District Judge