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5 UNITED STATES DISTRICT COURT
6 SOUTHERN DISTRICT OF CALIFORNIA

7 GLYNDON RIVERA,
8 Booking #15743971,

9 Plaintiff,

10 vs.

11 BILL GORE, Sheriff, et al.,

12 Defendants.

Case No. 3:17-cv-02225-WQH-NLS

ORDER

13 GLYNDON RIVERA (“Plaintiff”), while detained at the San Diego County
14 Sheriff’s Department South Bay Detention Facility and proceeding pro se, filed this civil
15 rights action pursuant to 42 U.S.C. § 1983 on October 31, 2017. (ECF No. 1 at 1). Plaintiff
16 alleged that San Diego County Sheriff Bill Gore; San Diego County Superior Court Judge
17 Dahlquist; John Doe, identified as a San Diego County “Adoptions Director”; and Teresa
18 Gomez, the mother of his son, violated his First, Eighth, and Fourteenth Amendment rights
19 during his time in custody and during criminal and parental termination proceedings. (ECF
20 No. 1 at 1-6).

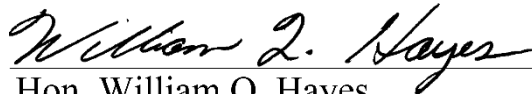
21 On February 21, 2018, the Court granted Plaintiff leave to proceed *in forma pauperis*
22 (“*IFP*”) but dismissed his Complaint for failing to state a claim pursuant to 28 U.S.C.
23 § 1915(e)(2) and § 1915A(b). (ECF No. 5). Plaintiff was granted forty-five days to file an
24 Amended Complaint. *Id.* at 6-13. Plaintiff was informed that his failure to amend would
25 result in the dismissal of his case. *Id.* at 13; *see also Lira v. Herrera*, 427 F.3d 1164, 1169
26 (9th Cir. 2005) (“If a plaintiff does not take advantage of the opportunity to fix his
27 complaint, a district court may convert the dismissal of the complaint into a dismissal of
28 the entire action.”).

1 More than three months have passed since the Court’s February 21, 2018 Order, and
2 Plaintiff’s Amended Complaint was due on or before April 9, 2018. The docket reflects
3 that Plaintiff has not filed an Amended Complaint or requested an extension of time in
4 which to do so. “The failure of the plaintiff eventually to respond to the court’s
5 ultimatum—either by amending the complaint or by indicating to the court that [he] will
6 not do so—is properly met with the sanction of a Rule 41(b) dismissal.” *Edwards v. Marin*
7 *Park*, 356 F.3d 1058, 1065 (9th Cir. 2004).

8 Accordingly, the Court DISMISSES this civil action in its entirety without prejudice
9 based on Plaintiff’s failure to state a claim upon which relief can be granted and his failure
10 to prosecute pursuant to Fed. R. Civ. P. 41(b). The Court CERTIFIES that an *IFP* appeal
11 would not be taken in good faith pursuant to 28 U.S.C. § 1915(a)(3) and DIRECTS the
12 Clerk to enter a final judgment of dismissal and close the case.

13 **IT IS SO ORDERED.**

14 Dated: May 24, 2018

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16 Hon. William Q. Hayes
17 United States District Court
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