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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 TREVOR DANIEL CARTEE,  
12 Booking #17-7267,

13 Plaintiff,

14 vs.

15 IMPERIAL COUNTY SHERIFF'S  
16 DEPARTMENT,

17 Defendant.  
18

Case No. 3:18-cv-00327-CAB-AGS

**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**

19 TREVOR DANIEL CARTEE (“Plaintiff”), while detained at the Imperial County  
20 Jail in El Centro, California, and proceeding pro se, filed a civil rights Complaint  
21 pursuant to 42 U.S.C. § 1983 on February 9, 2018, followed by two ex parte documents  
22 in which he objected to various aspects of his pending criminal proceedings in Imperial  
23 County Superior Court. *See* ECF Nos. 1, 3, 7. His pleadings sought “release from [his]  
24 illegal detention,” and this Court’s intervention in the “injustice” he claims to have faced  
25 in Imperial County. *See* ECF No. 7 at 6, 7.

26 **I. Procedural History**

27 On May 29, 2018, the Court granted Plaintiff leave to proceed in forma pauperis  
28 (“IFP”), but dismissed his Complaint sua sponte for failing to state a claim pursuant to 28

1 U.S.C. § 1915(e)(2)(B) and § 1915A(b). *See* ECF No. 8. Plaintiff was informed of his  
2 pleading deficiencies, and granted 45 days leave in which to file an Amended Complaint  
3 that fixed them. *Id.* at 6-11. Further, Plaintiff was cautioned his failure to amend would  
4 result in the dismissal of his case. *Id.* at 10-11, *citing Lira v. Herrera*, 427 F.3d 1164,  
5 1169 (9th Cir. 2005) (“If a plaintiff does not take advantage of the opportunity to fix his  
6 complaint, a district court may convert the dismissal of the complaint into a dismissal of  
7 the entire action.”)).

8 Almost two months have passed since the Court’s May 29, 2018 Order, and  
9 Plaintiff’s Amended Complaint was due on or before July 13, 2018. But to date, Plaintiff  
10 has failed to amend, and has not asked for an extension of time in which to do so. “The  
11 failure of the plaintiff eventually to respond to the court’s ultimatum—either by amending  
12 the complaint or by indicating to the court that [he] will not do so—is properly met with  
13 the sanction of a Rule 41(b) dismissal.” *Edwards v. Marin Park*, 356 F.3d 1058, 1065  
14 (9th Cir. 2004).

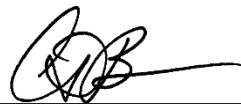
## 15 **II. Conclusion and Order**

16 Accordingly, the Court **DISMISSES** this civil action in its entirety without  
17 prejudice based on Plaintiff’s failure to state a claim upon which § 1983 relief can be  
18 granted pursuant to 28 U.S.C. § 1915(e)(2)(B) and § 1915A(b), and his failure to  
19 prosecute pursuant to FED. R. CIV. P. 41(b) in compliance with the Court’s May 29, 2018  
20 Order (ECF No. 8).

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

24 **IT IS SO ORDERED.**

25 Dated: July 27, 2018



26  
27 Hon. Cathy Ann Bencivengo  
28 United States District Judge