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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JUAN DANIEL ZARCO,

Plaintiff - Appellant,

v.

MCQUEEN; et al.,

Defendants - Appellees.

No. 07-15159

D.C. No. CV-01-00203-FRD

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Frank C. Damrell, Jr., District Judge, Presiding

Submitted August 26, 2008**

Before: SCHROEDER, KLEINFELD, and IKUTA, Circuit Judges.

Juan Daniel Zarco, a California state prisoner, appeals pro se from the district court's order dismissing his 42 U.S.C. § 1983 action for failure to

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

prosecute. We have jurisdiction under 28 U.S.C. § 1291. We review for abuse of discretion. *Al-Torki v. Kaempfen*, 78 F.3d 1381, 1384 (9th Cir. 1996). We affirm.

The district court did not abuse its discretion by dismissing Zarco's action without prejudice for failure to prosecute. Zarco failed to amend his complaint after the court dismissed his original complaint with instructions to amend, and failed to file objections to the magistrate judge's report recommending dismissal. *See id.*; *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992).

Zarco's remaining contentions are without merit.

AFFIRMED.