

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Sanchez v. Johnson

Sanchez · No. 2:24-cv-2737-JDP (P) · Decided March 18, 2025

SUMMARY

The court recommends dismissal without prejudice of Mario Sanchez’s action for failure to prosecute, failure to comply with court orders, and failure to state a claim. The recommendation follows plaintiff’s failure to file an amended complaint or respond to an order to show cause despite prior warnings, and it directs the clerk to close the case.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 MARIO SANCHEZ, Case No. 2:24-cv-2737-JDP (P) 12 Plaintiff, 13 v.
ORDER; FINDINGS AND RECOMMENDATIONS 14 JOHNSON, et al., 15 Defendants. 16 17
On October 18, 2024, I screened plaintiff’s complaint and notified him that it did not state 18 a
claim. ECF No. 5. I ordered him to file, within thirty days, an amended complaint.

Id. On 19 December 12, 2024, I granted plaintiff’s request for an additional thirty days to file an
amended 20 complaint. ECF No. 10. Plaintiff failed to timely file an amended complaint or
otherwise to 21 respond to the court order.

Therefore, on February 14, 2025, I ordered plaintiff to show cause 22 why this action should not
be dismissed for his failure to prosecute, failure to comply with court 23 orders, and failure to
state a claim. ECF No. 11. I notified plaintiff that if he wished to continue 24 with this lawsuit, he
must file an amended complaint. I also warned plaintiff that failure to 25 comply with the
February 14, 2025 order would result in a recommendation that this action be 26 dismissed.

Id. The deadline for plaintiff to file an amended complaint and response to the order 27 to show
cause has passed without word from plaintiff. 28 The court has the inherent power to control its
docket and may, in the exercise of that 1 power, impose sanctions where appropriate, including
dismissal. *Bautista v. Los Angeles Cnty.*, 2 216 F.3d 837, 841 (9th Cir.

2000); see Local Rule 110 (“Failure of counsel or of a party to 3 comply with these Rules or with
any order of the Court may be grounds for imposition by the 4 Court of any and all sanctions...
within the inherent power of the Court.”). 5 A court may dismiss an action based on a party’s
failure to prosecute an action, failure to 6 obey a court order, or failure to comply with local rules.

See *Ghazali v. Moran*, 46 F.3d 52, 53-54 7 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 8 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order to file an amended 9 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to 10 comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. 11 U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir.

1987) (dismissal for failure to comply with court 12 order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of 13 prosecution and failure to comply with local rules). 14 In recommending that this action be dismissed for failure to comply with court orders, I 15 have considered “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s 16 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy 17 favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.” 18 *Ferdik*, 963 F.2d at 1260-61 (citation omitted).

19 Here, plaintiff has failed to respond to court orders directing him to file an amended 20 complaint. See ECF Nos. 10 & 11. Therefore, the public interest in expeditious resolution of 21 litigation, the court’s need to manage its docket, and the risk of prejudice to the defendants all 22 support imposition of the sanction of dismissal. Lastly, the court’s warning to plaintiff that 23 failure to obey court orders will result in dismissal satisfies the “considerations of the 24 alternatives” requirement.

Ferdik, 963 F.2d at 1262; *Malone*, 833 at 132-33; *Henderson*, 779 25 F.2d at 1424. The February 14, 2025 order expressly warned plaintiff that his failure to comply 26 with court orders would result in dismissal. ECF No. 11. Plaintiff had adequate warning that 27 dismissal could result from his noncompliance.

Accordingly, I find that the balance of factors 28 weighs in favor of dismissal. 1 Accordingly, it is hereby ORDERED that the Clerk of Court assign a district judge to this 2 | matter. 3 Further, it is hereby RECOMMENDED that: 4 1. This action be DISMISSED without prejudice for failure to prosecute, failure to 5 | comply with court orders, and failure to state a claim for the reasons set forth in the February 14, 6 | 2025 order.

See ECF No. 11. 7 2. The Clerk of Court be directed to close the case. 8 These findings and recommendations are submitted to the United States District Judge 9 | assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of 10 | service of these findings and recommendations, any party may file written objections with the 11 | court and serve a copy on all parties.

Any such document should be captioned “Objections to 12 | Magistrate Judge’s Findings and Recommendations,” and any response shall be served and filed 13 | within fourteen days of service of the objections. The parties are advised that failure to file 14 | objections within the

specified time may waive the right to appeal the District Court's order. See 15 | Turner v. Duncan, 158 F.3d 449, 455 (9th Cir.

1998); Martinez v. Yist, 951 F.2d 1153 (9th Cir. 16 1991). 17 18 IT IS SO ORDERED. 19 (q Sty
— Dated: _ March 18, 2025 q—— 20 JEREMY D. PETERSON UNITED STATES
MAGISTRATE JUDGE 22 23 24 25 26 27 28