

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Adam Randolph Powell v. Jeff Lynch

Powell v. Lynch · No. 2:22-CV-1493-DAD-DMC-P · Decided October 14, 2025

OPINION

Adam Randolph Powell v. Jeff Lynch

PER CURIAM.

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8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 ADAM RANDOLPH POWELL, No. 2:22-CV-1493-DAD-DMC-P

12 Plaintiff,

13 v. FINDINGS AND RECOMMENDATIONS

14 JEFF LYNCH,

15 Defendant. 16

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 18 42 U.S.C. §
1983. On August 15, 2025, the Court issued an order directing Plaintiff to do one of 19 the
following within 30 days: (1) file a first amended complaint as against Defendant Lynch only 20
consistent with the District Judge’s September 11, 2024, order; (2) file a first amended complaint
21 against Defendant Lynch and others based on Defendant’s stipulation; or (3) file a motion for
22 leave to amend pursuant to Federal Rule of Civil Procedure 15. See ECF No. 38. To date, 23
Plaintiff has not complied despite having been previously warned that failure to comply with the
24 Court’s orders could result in dismissal of the entire action. 25 The Court must weigh five
factors before imposing the harsh sanction of dismissal. 26 See *Bautista v. Los Angeles County*,
216 F.3d 837, 841 (9th Cir. 2000); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
1987). Those factors are: (1) the public's interest in 28 expeditious resolution of litigation; (2) the
court's need to manage its own docket; (3) the risk of 1 | prejudice to opposing parties; (4) the
public policy favoring disposition of cases on their merits; 2 || and (5) the availability of less
drastic sanctions. See *id.*; see also *Ghazali v. Moran*, 46 F.3d 52, 3 || 53 (9th Cir. 1995) (per
curiam). A warning that the action may be dismissed as an appropriate 4 || sanction is considered a
less drastic alternative sufficient to satisfy the last factor. See *Malone*, 5 || 833 F.2d at 132-33
&n.1. The sanction of dismissal for lack of prosecution is appropriate where 6 || there has been
unreasonable delay. See *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 7 || 1986). Dismissal
has also been held to be an appropriate sanction for failure to comply with an 8 | order to file an

amended complaint. See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 9 | 1992). 10 Having considered these factors, and in light of Plaintiff's failure to comply with 11 || the Court's prior orders, the Court finds that dismissal of this action is appropriate. 12 Based on the foregoing, the undersigned recommends that this action be dismissed, 13 || without prejudice, for lack of prosecution and failure to comply with court rules and orders. 14 These findings and recommendations are submitted to the United States District 15 || Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(I). Within 14 days 16 || after being served with these findings and recommendations, any party may file written 17 || objections with the court. Responses to objections shall be filed within 14 days after service of 18 || objections. Failure to file objections within the specified time may waive the right to appeal. See 19 | *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 1991). 20 21 | Dated: October 10, 2025 Co

22 DENNIS M. COTA

3 UNITED STATES MAGISTRATE JUDGE

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