

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Noe C. Villarreal v. Superior Court Merced Co., et al.

No. 1:24-cv-01143 KES GSA (PC) · No. No. 1:24-cv-01143 KES GSA (PC) · Decided June 25, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends dismissal without prejudice of Noe C. Villarreal’s pro se § 1983 action for failure to obey court orders and failure to prosecute. The recommendation relies on Federal Rule of Civil Procedure 41(b), Eastern District Local Rules 110, 182(f), and 183(b), and the Malone factors; objections were due within fourteen days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Gary S. Austin
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 25, 2025
DOCKET	No. 1:24-cv-01143 KES GSA (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal without prejudice of a pro se prisoner civil-rights action for failure to obey court orders and failure to prosecute.
STANDARD OF REVIEW	Dismissal for failure to prosecute or failure to comply with court orders is evaluated under Federal Rule of Civil Procedure 41(b) and the five Malone factors: the public interest in expeditious resolution, the court's need to manage its docket, the risk of prejudice to defendants, the public policy favoring disposition on the merits, and the availability of less drastic sanctions.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- sanctions
- civil procedure
- section 1983
- prisoners rights

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) and applicable local rules because Plaintiff failed to obey court orders.
2. Whether dismissal was warranted for failure to prosecute after Plaintiff failed to participate in the action and failed to maintain a current address with the court.
3. Whether the five Malone factors supported dismissal and whether a less drastic sanction was available.

HOLDINGS

1. Dismissal without prejudice was recommended because Plaintiff failed to comply with repeated orders to amend and to respond to the order to show cause, and failed to prosecute the action.
2. The five Malone factors supported dismissal without prejudice.

KEY QUOTATIONS

“A district court must weigh five factors in determining whether to dismiss a case for failure to comply with a court order: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.”” (at 2)

“Accordingly, IT IS HEREBY RECOMMENDED that this matter be DISMISSED without prejudice for failure to obey a court order and for failure to prosecute.” (at 6)

FACTUAL BACKGROUND

Plaintiff, proceeding pro se and previously housed at Atascadero State Hospital, filed a civil-rights action. The court twice screened his pleadings, found Rule 8 deficiencies and failure to state a claim, and directed him to file an amended pleading. Plaintiff did not timely file the required second amended complaint, did not respond to an order to show cause, and did not file a notice of change of address after court mail was returned as undeliverable. No viable defendants had been identified or served.

PROCEDURAL HISTORY

Plaintiff filed a complaint under 42 U.S.C. § 1983 and other federal statutes. The court screened the complaint and first amended complaint, found violations of Federal Rule of Civil Procedure 8 and failure to state a claim, and granted Plaintiff additional opportunities to amend. Plaintiff failed to file the required second amended complaint, failed to respond to an order to show cause, and failed to file a timely notice of change of address. The magistrate judge therefore recommended dismissal without prejudice, subject to fourteen days for objections.

DISPOSITION

other

CASES CITED

- *Malone v. United States Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987)
- *Thompson v. Housing Authority of City of Los Angeles*, 782 F.2d 829 (9th Cir. 1986) (per curiam)
- *Whitaker v. Superior Court of San Francisco*, 514 U.S. 208, 210 (1995)
- *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014)
- *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991)

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