

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Standridge v. Amador County

No. 2:22-cv-1534 KJN P (E.D. Cal. Mar. 8, 2023) · No. No. 2:22-cv-1534 KJN P · Decided March 8, 2023

SUMMARY

The United States District Court for the Eastern District of California recommends dismissing Barry Standridge’s 42 U.S.C. § 1983 action against Amador County without prejudice under Federal Rule of Civil Procedure 41(b) for failure to oppose a pending motion and comply with a court order. The magistrate judge applies the five-factor dismissal framework from *Ferdik v. Bonzelet* and directs the Clerk to assign a district judge.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Kendall J. Newman
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 8, 2023
DOCKET	No. 2:22-cv-1534 KJN P
DISPOSITION	other
PROCEDURAL POSTURE	A county jail inmate brought a 42 U.S.C. § 1983 civil rights action. After plaintiff failed to oppose a pending motion despite a court order and warning that noncompliance could lead to dismissal under Federal Rule of Civil Procedure 41(b), the magistrate judge recommended dismissal without prejudice for failure to prosecute and failure to comply with a court order.
STANDARD OF REVIEW	Dismissal under Federal Rule of Civil Procedure 41(b) for failure to comply with a court order is evaluated under five 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 alternatives.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Barry Standridge v. County of Amador

TOPICS

civil procedure

sanctions

motions to dismiss

section 1983

prisoners rights

PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) because plaintiff failed to comply with a court order and failed to prosecute the action.
2. Whether the five Ferdik factors supported dismissal despite the public policy favoring resolution of cases on their merits.

HOLDINGS

1. A district court may dismiss an action under Federal Rule of Civil Procedure 41(b) when a plaintiff fails to comply with a court order.
2. The first, second, third, and fifth factors strongly favored dismissal and outweighed the fourth factor, the public policy favoring disposition on the merits.

KEY QUOTATIONS

“Pursuant to Federal Rule of Civil Procedure 41(b), the district court may dismiss an action for failure to comply with any order of the court.” (at 1)

“The fourth factor, public policy favoring disposition of cases on their merits, weighs against dismissal of this action as a sanction.” (at 2)

“Under the circumstances of this case, those factors outweigh the general public policy favoring disposition of cases on their merits.” (at 3)

FACTUAL BACKGROUND

Plaintiff was a county jail inmate proceeding without counsel in a § 1983 action. The court ordered him to respond to a pending motion within thirty days and expressly warned that failure to respond could result in dismissal for failure to prosecute and failure to comply with court rules and a court order. Plaintiff failed to file any response, and defendant moved to dismiss based on that failure.

PROCEDURAL HISTORY

Plaintiff filed the action on August 31, 2022. On January 23, 2023, the court ordered plaintiff to file an opposition or statement of non-opposition within thirty days and warned that failure to do so could result in dismissal. Plaintiff did not respond, defendant moved to dismiss on March 2, 2023, and the magistrate judge recommended dismissal without prejudice under Rule 41(b), subject to review by an assigned district judge.

DISPOSITION

other

CASES CITED

- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-63 (9th Cir. 1992)
- *Thompson v. Housing Auth.*, 782 F.2d 829, 831 (9th Cir. 1986)
- *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995)
- *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(PC) *Standridge v. Amador County*

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 BARRY STANDRIDGE, No. 2:22-cv-1534 KJN P

12 Plaintiff,

13 v. ORDER AND FINDINGS &

RECOMMENDATIONS

14 COUNTY OF AMADOR,

15 Defendant. 16

17 Plaintiff is a county jail inmate, proceeding without counsel, with a civil rights action 18 pursuant to 42 U.S.C. § 1983. 19 On January 23, 2023, plaintiff was ordered to file an opposition or a statement of non- 20 opposition to the pending motion within thirty days. In that same order, plaintiff was advised of 21 the requirements for filing an opposition to the pending motion and that failure to oppose such a 22 motion would be deemed as consent to have the: (a) pending motion granted; (b) action 23 dismissed for lack of prosecution; and (c) action dismissed based on plaintiff's failure to comply 24 with these rules and a court order. Plaintiff was also informed that failure to file an opposition 25 would result in a recommendation that this action be dismissed pursuant to Rule 41(b) of the 26 Federal Rules of Civil Procedure. 27 The thirty-day period expired and plaintiff did not respond to the court's order. On March 28 2, 2023, defendant filed a motion to dismiss this case based on plaintiff's failure to respond. 1 "Pursuant to Federal Rule of Civil Procedure 41(b), the district court may dismiss an 2 action for failure to comply with any order of the court." *Ferdik v. Bonzelet*, 963 F.2d 1258, 3 1260 (9th Cir. 1992). "In determining whether to dismiss a case for failure to comply with a 4 court order the district court must weigh five factors including: '(1) the public's interest in 5 expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of 6 prejudice to the defendants; (4) the public

policy favoring disposition of cases on their merits; 7 and (5) the availability of less drastic alternatives.” Ferdik, 963 F.2d at 1260-61 (quoting 8 Thompson v. Housing Auth., 782 F.2d 829, 831 (9th Cir. 1986)); see also Ghazali v. Moran, 46 9 F.3d 52, 53 (9th Cir. 1995). 10 In determining to recommend that this action be dismissed, the court considered the five 11 factors set forth in Ferdik. Here, as in Ferdik, the first two factors strongly support dismissal of 12 this action. The action has been pending since August 31, 2022, almost six months. Plaintiff’s 13 failure to comply with the Local Rules and the court’s January 23, 2023 order suggests that he 14 abandoned this action and that further time spent by the court thereon will consume scarce 15 judicial resources in addressing litigation which plaintiff demonstrates no intention to pursue. 16 Under the circumstances of this case, the third factor, prejudice to defendant from 17 plaintiff’s failure to oppose the motion, also favors dismissal. Plaintiff’s failure to oppose the 18 motion prevents defendant from addressing plaintiff’s substantive opposition, and delays 19 resolution of this action, thereby causing defendant to incur additional time and expense. 20 The fifth factor also favors dismissal. The court advised plaintiff of the requirements 21 under the Local Rules and granted ample additional time to oppose the pending motion, all to no 22 avail. The court finds no suitable alternative to dismissal of this action. 23 The fourth factor, public policy favoring disposition of cases on their merits, weighs 24 against dismissal of this action as a sanction. However, for the reasons set forth supra, the first, 25 second, third, and fifth factors strongly support dismissal. Under the circumstances of this case, 26 those factors outweigh the general public policy favoring disposition of cases on their merits. See 27 Ferdik, 963 F.2d at 1263. 28 IT IS HEREBY ORDERED that the Clerk of Court shall assign a district judge to this 1 || case. 2 For the foregoing reasons, IT IS HEREBY RECOMMENDED that this action be 3 || dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b). 4 These findings and recommendations are submitted to the United States District Judge 5 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 6 || after being served with these findings and recommendations, any party may file written 7 || objections with the court and serve a copy on all parties. Such a document should be captioned 8 | “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the 9 || objections shall be filed and served within fourteen days after service of the objections. The 10 || parties are advised that failure to file objections within the specified time may waive the right to 11 || appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991). 12 | Dated: March 8, 2023 i Aectl Aharon 14 KENDALL J.NE

UNITED STATES MAGISTRATE JUDGE

1S | stant534.nop2 16 17 18 19 20 21 22 23 24 25 26 27 28