

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Boyd v. Walmart

Boyd · No. 2:24-cv-0275-DJC-JDP (PS) · Decided April 21, 2025

SUMMARY

The United States Magistrate Judge recommends dismissing Diane L. Boyd’s action against Walmart without prejudice because she failed to respond to a motion to dismiss and failed to comply with court orders and local rules. The order vacates the scheduled hearing, recommends denying the motion to dismiss as moot, and advises the parties of their right to object.

OPINION

(PS) Boyd v. Walmart

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 DIANE L. BOYD, Case No. 2:24-cv-0275-DJC-JDP (PS) 12 Plaintiff,

ORDER; FINDINGS AND

13 v. RECOMMENDATIONS

14 WALMART.,

15 Defendant. 16

17 Defendant filed a motion to dismiss, which is currently set for hearing on April 24, 2025. 18
ECF Nos. 20 & 23. After plaintiff failed to timely respond to that motion, I continued the hearing
19 on defendant’s motion and ordered plaintiff to show cause why sanctions should not be
imposed 20 for her failure to comply with the court’s local rules. ECF Nos. 21 & 23. I also
ordered plaintiff 21 file an opposition or statement of non-opposition to defendant’s motion by no
later than April 3, 22 2025. ECF No. 23. I warned plaintiff that failure to comply with that order
could result in a 23 recommendation that this action be dismissed. See ECF No. 21. The deadline
has passed, and 24 plaintiff has not filed an opposition to defendant’s motion or otherwise
responded to the court’s 25 order. 26 The court has the inherent power to control its docket and
may, in the exercise of that 27 power, impose sanctions where appropriate, including dismissal.
Bautista v. Los Angeles Cnty., 28 216 F.3d 837, 841 (9th Cir. 2000); see Local Rule 110 (“Failure
of counsel or of a party to 1 comply with these Rules or with any order of the Court may be
grounds for imposition by the 2 Court of any and all sanctions . . . within the inherent power of the
Court.”). 3 A court may dismiss an action based on a party’s failure to prosecute an action, failure

to 4 obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 5 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 6 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order to file an amended 7 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to 8 comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. 9 U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court 10 order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of 11 prosecution and failure to comply with local rules). 12 In recommending that this action be dismissed for failure to comply with court orders, I 13 have considered “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s 14 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy 15 favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.” 16 *Ferdik*, 963 F.2d at 1260-61 (citation omitted). 17 Here, plaintiff failed to respond to the order directing him to show cause why this action 18 should not be dismissed. See ECF Nos. 21 & 23. Therefore, the public interest in expeditious 19 resolution of litigation, the court’s need to manage its docket, and the risk of prejudice to the 20 defendant all support imposition of the sanction of dismissal. Lastly, my warning to plaintiff that 21 failure to obey court orders will result in dismissal satisfies the “considerations of the 22 alternatives” requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 at 132-33; *Henderson*, 779 23 F.2d at 1424. The February 18, 2025, order expressly warned plaintiff that his failure to comply 24 with court orders would result in dismissal. ECF No. 21; see ECF No. 23. Plaintiff had adequate 25 warning that dismissal could result from her noncompliance. I therefore find that the balance of 26 factors weighs in favor of dismissal. 27 Accordingly, it is hereby ORDERED that the April 24, 2025 hearing on defendant’s 28 motion to dismiss is vacated. 1 Further, it is RECOMMENDED that: 2 1. This action be dismissed without prejudice for failure to prosecute, failure to comply 3 | with the court’s local rules, and failure to comply with court orders. 4 2. Defendant’s motion to dismiss, ECF No. 20, be denied as moot. 5 3. The Clerk of Court be directed to close the case. 6 These findings and recommendations are submitted to the United States District Judge 7 | assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of 8 | service of these findings and recommendations, any party may file written objections with the 9 | court and serve a copy on all parties. Any such document should be captioned “Objections to 10 | Magistrate Judge’s Findings and Recommendations,” and any response shall be served and filed 11 | within fourteen days of service of the objections. The parties are advised that failure to file 12 | objections within the specified time may waive the right to appeal the District Court’s order. See 13 | *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 14 | 1991). 15 16 IT IS SO ORDERED. 17 (1 Sy — Dated: _ April 21, 2025 q_—

18 JEREMY D. PETERSON

19 UNITED STATES MAGISTRATE JUDGE

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