

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Bennett v. Federal Bureau of Investigation, et al.

Bennett · No. 2:24-cv-1038-KJM-SCR · Decided July 11, 2025

SUMMARY

The United States Magistrate Judge recommends dismissing David Bennett’s action against the Federal Bureau of Investigation and other defendants without prejudice. The recommendation is based on failure to state a claim and failure to file an amended complaint within the time allowed by the court’s June 3, 2025 order, under Federal Rule of Civil Procedure 41(b) and Local Rule 110.

OPINION

(PC) Bennett v. FBI

PER CURIAM.

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9 UNITED STATES DISTRICT COURT

10 FOR THE EASTERN DISTRICT OF CALIFORNIA

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12 DAVID BENNETT, No. 2:24-cv-1038-KJM-SCR

13 Plaintiff,

14 v. FINDINGS & RECOMMENDATIONS

15 FEDERAL BUREAU OF

INVESTIGATION, et al., 16 Defendants. 17 18 By order filed June 3, 2025, plaintiff’s complaint was dismissed and thirty days leave to 19 file an amended complaint was granted. ECF No. 17. More than 30 days from that date have 20 now passed, and plaintiff has not filed an amended complaint or requested additional time to do 21 so. Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without 22 prejudice for failure to state a claim and for failure to comply with a court order. See Local Rule 23 110; Fed. R. Civ. P. 41(b). 24 Dismissal for failure to state a claim on which relief can be granted is warranted for the 25 reasons provided in the court’s order filed June 3. ECF No. 17 at 3-4. Dismissal is also 26 warranted for plaintiff’s failure to comply with the court’s order that he file an amended 27 complaint. When deciding whether to recommend dismissal for failure to comply with a court 28 order, the Court must consider “(1) the public’s interest in expeditious resolution of litigation; (2) 1 || the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public 2 || policy favoring disposition of cases on their merits; and (5) the availability of less drastic 3 || alternatives.” *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (citation omitted). 4 |

“The public’s interest in expeditious resolution of litigation always favors dismissal.” *Yourish v.* 5
|| *Cal. Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999). The Court’s need to manage its docket also 6 ||
weighs in favor of dismissal, particularly given the heavy caseload in this District. The third 7 ||
factor is neutral given that most defendants have not yet appeared, but “[u]nnecessary delay 8 |
inherently increases the risk that witnesses’ memories will fade and evidence will become stale.” 9
|| *Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th Cir. 2002). The fourth factor weighs against 10 |
dismissal, but less so if Plaintiff is not precluded from litigating this matter. The Court has 11 |
considered less drastic alternatives and concludes that dismissal without prejudice is appropriate.
12 These findings and recommendations are submitted to the United States District Judge 13 ||
assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty one days
14 | after being served with these findings and recommendations, plaintiff may file written
objections 15 || with the court and serve a copy on all parties. Such a document should be
captioned 16 | “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is
advised that 17 || failure to file objections within the specified time may waive the right to appeal
the District 18 | Court’s order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). 19 || DATED: July
11, 2025 20 21 A Kink

22 SEAN C. RIORDAN

UNITED STATES MAGISTRATE JUDGE

23 24 25 26 27 28