

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Rohullah Allahyar v. Damom Momand

Allahyar v. Momand · No. 2:25-cv-01617-TLN-CSK PS · Decided December 15, 2025

SUMMARY

The United States Magistrate Judge recommends dismissing Rohullah Allahyar’s action against Damom Momand for failure to prosecute. The recommendation is based on Plaintiff’s failure to file a complete affidavit supporting his motion to proceed in forma pauperis despite two court orders and opportunities to comply.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 15, 2025
DOCKET	2:25-cv-01617-TLN-CSK PS
DISPOSITION	other
PROCEDURAL POSTURE	A magistrate judge issued findings and recommendations recommending sua sponte dismissal of the action under Federal Rule of Civil Procedure 41(b) because Plaintiff failed to submit a complete affidavit supporting his motion to proceed in forma pauperis and failed to comply with repeated court orders.
STANDARD OF REVIEW	Dismissal for failure to prosecute or failure to comply with court rules or orders is governed by Federal Rule of Civil Procedure 41(b) and the Ninth Circuit's five-factor test addressing expeditious resolution, docket management, prejudice, less drastic alternatives, and the public policy favoring decisions on the merits.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- civil procedure
- sanctions

PRACTICE AREAS

civil procedure

failure to prosecute

in forma pauperis

QUESTIONS PRESENTED

1. Whether the action should be dismissed sua sponte under Federal Rule of Civil Procedure 41(b) for Plaintiff's failure to prosecute and failure to comply with court orders.
2. Whether the Ninth Circuit's five dismissal factors support dismissal after the Court attempted less drastic alternatives.

HOLDINGS

1. Dismissal is appropriate because Plaintiff repeatedly failed to submit the complete IFP affidavit required by court orders and failed to take the steps necessary to prosecute the action.

KEY QUOTATIONS

"The first two factors weigh in favor of dismissal because the public has a strong interest in expeditious resolution of litigation, and Plaintiff has failed to take the steps necessary to move this case forward." (at 2)

"Therefore, after careful consideration, the Court concludes dismissal for failure to prosecute is appropriate." (at 3)

FACTUAL BACKGROUND

Plaintiff Rohullah Allahyar sought to proceed in forma pauperis, but his supporting affidavit was incomplete. Despite an initial order and a later order granting an additional fourteen days, Plaintiff did not submit a complete affidavit and did not otherwise participate in the litigation. The Court concluded that his repeated noncompliance prevented the case from moving forward.

PROCEDURAL HISTORY

The Court initially informed Plaintiff that his affidavit supporting his IFP motion was incomplete and ordered him to submit a complete affidavit within twenty-one days. After Plaintiff failed to comply, the Court issued a second order allowing fourteen additional days and warning that noncompliance could result in a recommendation of dismissal for failure to prosecute. Plaintiff again failed to file the required affidavit, leading to these findings and recommendations.

DISPOSITION

other

CASES CITED

- Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995)
- Hells Canyon Preservation Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005)
- Applied Underwriters, Inc. v. Lichtenegger, 913 F.3d 884, 890 (9th Cir. 2019)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)

- *Martinez v. Yist*, 951 F.2d 1153, 1156-57 (9th Cir. 1991)

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