

**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.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 ROHULLAH ALLAHYAR, Case No. 2:25-cv-01617-TLN-CSK PS 12
Plaintiff, 13 v. FINDINGS AND RECOMMENDATIONS 14 DAMOM MOMAND, (ECF No. 4)
15 Defendant. 16 17 On August 18, 2025, the Court issued a minute order informing Plaintiff
Rohullah 18 Allahyar that the affidavit supporting his motion to proceed in forma pauperis (“IFP”)
was 19 incomplete and did not contain all the information needed for the Court to determine 20
whether the motion should be granted.¹ (ECF No. 3.)

Plaintiff was ordered to file a 21 complete affidavit responding to all questions as outlined in the
August 18, 2025 minute 22 order, within twenty-one (21) days. Id. Over twenty-one (21) days
passed, and Plaintiff 23 did not file the required affidavit. See Docket.

On November 7, 2025, the Court ordered 24 Plaintiff to file a complete affidavit supporting his
motion to proceed IFP within fourteen 25 (14) days. 11/7/2025 Minute Order. Plaintiff was
warned that failure to comply with the 26 Court’s order will result in a recommendation that the
case be dismissed for failure to 27 1 This matter proceeds before the undersigned pursuant to 28
U.S.C. § 636, Fed.

R. 28 Civ. P. 72, and Local Rule 302(c). 1 prosecute. Over fourteen days have passed, and Plaintiff
has not filed a new complete 2 affidavit. See Docket. Accordingly, the Court recommends
dismissal of this action for 3 failure to prosecute. 4 I. LEGAL STANDARDS 5 Under Federal
Rule of Civil Procedure 41, a court may dismiss an action for 6 failure to prosecute or failure to
comply with the Federal Rules of Civil Procedure, the 7 court’s local rules, or any order of the
court.

Fed. R. Civ. P. 41(b); see also *Ghazali v. 8 Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (approving dismissal under Rule 41(b) for a party's 9 failure to follow the district court's local rules). This court's Local Rules are in accord. 10 See E.D. Cal. Local Rule 110 ("Failure of counsel or of a party to comply with these 11 Rules or with any order of the Court may be grounds for imposition by the Court of any 12 and all sanctions authorized by statute or Rule or within the inherent power of the 13 Court."); E.D.

Cal. Local Rule 183(a) (providing that a pro se party's failure to comply 14 with the federal rules, local rules, or other applicable law may support dismissal of that 15 party's action). The court may act on its own accord in exercising this authority. *Hells 16 Canyon Preservation Council v. U.S. Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005) 17 (approving sua sponte dismissals under Rule 41(b)).

18 The Ninth Circuit has found the following factors relevant in determining whether a 19 case should be dismissed under Rule 41(b): (1) the public's interest in expeditious resolution of litigation; 20 (2) the court's need to manage its docket; 21 (3) the risk of prejudice to the defendant(s); (4) the availability of less drastic alternatives; and 22 (5) the public policy favoring disposition of cases on their merits.

23 *Applied Underwriters, Inc. v. Lichtenegger*, 913 F.3d 884, 890 (9th Cir. 2019). 24 II. DISCUSSION 25 Applying the factors for involuntary dismissal, the Court finds this action should be 26 dismissed. See *Applied Underwriters*, 913 F.3d at 890.

The first two factors weigh in 27 favor of dismissal because the public has a strong interest in expeditious resolution of 28 litigation, and Plaintiff has failed to take the steps necessary to move this case forward. 1 In addition, this district court in particular has a strong need and interest in managing its 2 docket given the extremely high caseload in the Eastern District of California.

While the 3 risk of prejudice to Defendant is somewhat minimal, there is some prejudice given the 4 impact on resources of stale litigation. 5 As to the fourth factor, the Court has already tried less drastic alternatives. 6 Specifically, Plaintiff previously missed the deadline provided in an August 18, 2025 7 minute order to file an updated IFP application and was given another opportunity to file 8 a complete application.

11/7/2025 Minute Order. Despite this, Plaintiff has failed to file 9 an updated IFP application, or further participate in this litigation, leaving the Court with 10 little alternative but to recommend dismissal. 11 Finally, as to the public policy favoring disposition of cases on their merits, that 12 factor is outweighed here. Indeed, it is Plaintiff's own failure to prosecute the case and 13 comply with the rules that precludes a resolution on the merits.

14 Therefore, after careful consideration, the Court concludes dismissal for failure to 15 prosecute is appropriate. See *Hells Canyon*, 403 F.3d at 689 (approving court's sua 16 sponte dismissal

under Rule 41(b) for a plaintiff's failure to prosecute or comply with the 17 Federal Rules of Civil Procedure or the court's orders). 18 III. CONCLUSION 19 Based upon the findings above, it is RECOMMENDED that: 20 1.

Plaintiff's action be DISMISSED; and 21 2. The Clerk of the Court be directed to CLOSE this case. 22 These findings and recommendations are submitted to the United States District 23 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 24 14 days after being served with these findings and recommendations, any party may file 25 written objections with the Court and serve a copy on all parties.

This document should 26 be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any 27 reply to the objections shall be served on all parties and filed with the Court within 14 28 days after service of the objections. Failure to file objections within the specified time 1 may waive the right to appeal the District Court's order. Turner v. Duncan, 158 F.3d 449, 2 || 455 (9th Cir.

1998); Martinez v. Yist, 951 F.2d 1153, 1156-57 (9th Cir. 1991). 3 4 | Dated: December 15, 2025
C iy S \U 5 CHI SOO KIM 6 UNITED STATES MAGISTRATE JUDGE 7 || 5, alla.1617.25 8 9
10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28