

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

McVay v. Rodriguez

McVay · No. 1:24-cv-01059-BAM (PC) · Decided May 12, 2025

SUMMARY

The United States District Court for the Eastern District of California strikes Plaintiff Darron McVay’s first amended complaint because it was unsigned. The court directs the Clerk to provide a civil rights complaint form and gives Plaintiff 30 days to file a signed amended complaint or a notice of voluntary dismissal. The order warns that failure to comply may result in dismissal with prejudice.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Barbara A. McAuliffe
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 12, 2025
DOCKET	1:24-cv-01059-BAM (PC)
DISPOSITION	other
PROCEDURAL POSTURE	In a prisoner civil-rights action under 42 U.S.C. § 1983, the court screened the original complaint, granted leave to amend, and then considered Plaintiff's first amended complaint.
PRECEDENTIAL VALUE	unpublished
PARTIES	Darron McVay v. Rodriguez, et al.

TOPICS

- pleadings civil procedure prisoners rights section 1983

PRACTICE AREAS

- civil procedure prisoner civil rights

QUESTIONS PRESENTED

- Whether the court was required to strike Plaintiff's first amended complaint because it was unsigned.
- What filing date applies to papers mailed by Plaintiff after his release from custody.

HOLDINGS

1. An unsigned pleading must be stricken from the record because Federal Rule of Civil Procedure 11(a) and Eastern District of California Local Rule 131(b) require filed pleadings, motions, and papers to be signed by an attorney of record or by an unrepresented party personally.
2. Because Plaintiff had been released from custody, the prisoner mailbox rule no longer applied; filing was complete when mailed papers were received by the Clerk of Court.

KEY QUOTATIONS

“As Plaintiff’s first amended complaint is unsigned, the Court must strike it from the record.” (at 2)

“Now that Plaintiff has been released from custody, when papers are mailed to the Clerk’s Office, filing is complete when the papers are received by the Clerk of the Court.” (at 2)

FACTUAL BACKGROUND

Darron McVay, a former state prisoner proceeding pro se and in forma pauperis, filed a first amended complaint in a civil-rights action. The complaint was filed on May 9, 2025, but Plaintiff did not sign it. By the time of the order, Plaintiff had been released from custody, affecting the applicability of the prisoner mailbox rule.

PROCEDURAL HISTORY

The court screened Plaintiff’s complaint on March 4, 2025, and granted leave to file a first amended complaint curing identified deficiencies or to file a notice of voluntary dismissal. After granting a thirty-day extension, the court received Plaintiff’s first amended complaint on May 9, 2025, but determined that it was unsigned. The court struck the amended complaint and allowed Plaintiff thirty days to file a signed amended complaint or voluntarily dismiss the action.

DISPOSITION

other

CASES CITED

- *Houston v. Lack*, 487 U.S. 266, 270 (1988)
- *Douglas v. Noelle*, 567 F.3d 1103, 1108-09 (9th Cir. 2009)
- *Cooper v. City of Ashland*, 871 F.2d 104, 105 (9th Cir. 1989)

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA
9 10 DARRON MCVAY, Case No. 1:24-cv-01059-BAM (PC) 11 Plaintiff, ORDER STRIKING
UNSIGNED FIRST AMENDED COMPLAINT AND REQUIRING 12 v. PLAINTIFF TO FILE
A SIGNED FIRST 13 RODRIGUEZ, et al., AMENDED COMPLAINT 14 Defendants. (ECF No.
12) 15 THIRTY (30) DAY DEADLINE 16 17 Plaintiff Darron McVay (“Plaintiff”) is a former

state prisoner proceeding pro se and in forma pauperis in this civil rights action under 42 U.S.C. § 1983.

On March 4, 2025, the Court screened the complaint and granted Plaintiff leave to file a first amended complaint curing the identified deficiencies, or to file a notice of voluntary dismissal. (ECF No. 9.) On April 7, 2025, the Court granted Plaintiff's motion for a thirty-day extension of time to file a first amended complaint. (ECF Nos. 10, 11.)

The Court's order granting the extension of time was returned as "Undeliverable, Inactive" on April 21, 2025. Currently before the Court is Plaintiff's first amended complaint and updated address, filed May 9, 2025. (ECF No. 12.)

In preparing to screen the first amended complaint, pursuant to 28 U.S.C. § 1915A(a), the Court noted that the document is not signed. (ECF No. 12, p. 6.) Both the Federal Rules of Civil Procedure and this Court's Local Rules require that all filed pleadings, motions and papers be signed by at least one attorney of record or by the party personally if the party is unrepresented.

Fed. R. Civ. P. 11(a); Local Rule 131(b). As Plaintiff's first amended complaint is unsigned, the Court must strike it from the record. Plaintiff will be permitted an opportunity to file a signed complaint that complies with the Federal Rules of Civil Procedure and the Local Rules. Plaintiff is further reminded that, now that he has been released from custody, the prison mailbox rule no longer applies to his filings.

Under the mailbox rule, a prisoner's pleadings are deemed to be filed as of the date the prisoner delivered it to the prison authorities for mailing to the court clerk. See *Houston v. Lack*, 487 U.S. 266, 270 (1988); *Douglas v. Noelle*, 567 F.3d 1103, 1108–09 (9th Cir. 2009) (mailbox rule articulated in *Houston* applies to civil rights actions). Now that Plaintiff has been released from custody, when papers are mailed to the Clerk's Office, filing is complete when the papers are received by the Clerk of the Court.

Cooper v. City of Ashland, 871 F.2d 104, 105 (9th Cir. 1989) (emphasis added). Based on the foregoing, it is HEREBY ORDERED that: 1. Plaintiff's first amended complaint, filed May 9, 2025, (ECF No. 12), is STRICKEN from the record for lack of signature; 2.

The Clerk of the Court is directed to send to Plaintiff a civil rights complaint form; 3. Within thirty (30) days from the date of service of this order, Plaintiff SHALL file a signed first amended complaint, or a notice of voluntary dismissal; and 4. Plaintiff is warned that the failure to comply with this order will result in dismissal of this action, with prejudice, for failure to obey a court order and for failure to state a claim.

22 IT IS SO ORDERED. 23 24 Dated: May 12, 2025 /s/ Barbara A. McAuliffe _ UNITED
STATES MAGISTRATE JUDGE 25 26 27 28

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