

**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

OPINION

(PC) McVay v. Rodriguez

PER CURIAM.

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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 18
forma pauperis in this civil rights action under 42 U.S.C. § 1983. 19 On March 4, 2025, the Court
screened the complaint and granted Plaintiff leave to file a 20 first amended complaint curing the
identified deficiencies, or to file a notice of voluntary 21 dismissal. (ECF No. 9.) On April 7,
2025, the Court granted Plaintiff’s motion for a thirty-day 22 extension of time to file a first
amended complaint. (ECF Nos. 10, 11.) The Court’s order 23 granting the extension of time was
returned as “Undeliverable, Inactive” on April 21, 2025. 24 Currently before the Court is
Plaintiff’s first amended complaint and updated address, 25 filed May 9, 2025. (ECF No. 12.) In
preparing to screen the first amended complaint, pursuant to 26 28 U.S.C. § 1915A(a), the Court
noted that the document is not signed. (ECF No. 12, p. 6.) 27 Both the Federal Rules of Civil
Procedure and this Court’s Local Rules require that all 28 filed pleadings, motions and papers be
signed by at least one attorney of record or by the party 1 personally if the party is unrepresented.
Fed. R. Civ. P. 11(a); Local Rule 131(b). As Plaintiff’s 2 first amended complaint is unsigned, the
Court must strike it from the record. Plaintiff will be 3 permitted an opportunity to file a signed
complaint that complies with the Federal Rules of Civil 4 Procedure and the Local Rules. 5
Plaintiff is further reminded that, now that he has been released from custody, the prison 6
mailbox rule no longer applies to his filings. Under the mailbox rule, a prisoner’s pleadings are 7

deemed to be filed as of the date the prisoner delivered it to the prison authorities for mailing to 8 the court clerk. See *Houston v. Lack*, 487 U.S. 266, 270 (1988); *Douglas v. Noelle*, 567 F.3d 9 1103, 1108–09 (9th Cir. 2009) (mailbox rule articulated in *Houston* applies to civil rights 10 actions). Now that Plaintiff has been released from custody, when papers are mailed to the 11 Clerk’s Office, filing is complete when the papers are received by the Clerk of the Court. *Cooper 12 v. City of Ashland*, 871 F.2d 104, 105 (9th Cir. 1989) (emphasis added). 13 Based on the foregoing, it is HEREBY ORDERED that: 14 1. Plaintiff’s first amended complaint, filed May 9, 2025, (ECF No. 12), is STRICKEN from 15 the record for lack of signature; 16 2. The Clerk of the Court is directed to send to Plaintiff a civil rights complaint form; 17 3. Within thirty (30) days from the date of service of this order, Plaintiff SHALL file a 18 signed first amended complaint, or a notice of voluntary dismissal; and 19 4. Plaintiff is warned that the failure to comply with this order will result in dismissal 20 of this action, with prejudice, for failure to obey a court order and for failure to state 21 a claim. 22 IT IS SO ORDERED. 23 24 Dated: May 12, 2025 /s/ Barbara A. McAuliffe _

UNITED STATES MAGISTRATE JUDGE

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