

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Elijah Lee Jackson v. Mike

Jackson v. Mike · No. 2:24-cv-1460-JDP (P) · Decided July 30, 2025

SUMMARY

The court recommends dismissal without prejudice of Elijah Lee Jackson’s action against Mike for failure to prosecute and failure to comply with court orders requiring submission of USM-285 forms and a response to an order to show cause. The recommendation is based on the plaintiff’s failure to respond despite warnings that noncompliance could result in dismissal.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 30, 2025
DOCKET	2:24-cv-1460-JDP (P)
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal without prejudice for failure to prosecute and failure to comply with court orders.
STANDARD OF REVIEW	Dismissal for failure to prosecute or failure to comply with court orders is evaluated under the court's inherent docket-management authority and the five Ferdik factors: the public interest in expeditious resolution, the court's need to manage its docket, the risk of prejudice to defendants, the public policy favoring disposition on the merits, and the availability of less drastic alternatives.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- sanctions
- civil procedure
- service of process

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for plaintiff's failure to prosecute.
2. Whether the action should be dismissed without prejudice for plaintiff's failure to comply with court orders requiring submission of service forms.

HOLDINGS

1. A court may dismiss an action for failure to prosecute, failure to obey a court order, or failure to comply with local rules under its inherent docket-management authority and applicable local rules.
2. Dismissal without prejudice was warranted because plaintiff failed to respond to court orders, the relevant factors favored dismissal, and plaintiff had adequate warning of the consequence.

KEY QUOTATIONS

"The court has the inherent power to control its docket and may, in the exercise of that power, impose sanctions where appropriate, including dismissal." (at 1)

"Accordingly, I find that the balance of factors weighs in favor of dismissal." (at 2)

"This action be DISMISSED without prejudice for failure to prosecute and failure to comply with court orders" (at 3)

FACTUAL BACKGROUND

Plaintiff was ordered to complete and return USM-285 forms necessary to effect service on defendant. He failed to comply with that order and did not respond to a subsequent order to show cause that again required the forms and warned that noncompliance would result in dismissal.

PROCEDURAL HISTORY

The court previously ordered plaintiff to submit USM-285 forms needed to serve defendant. After plaintiff failed to respond, the court issued an order to show cause and again directed plaintiff to submit the forms, warning that noncompliance would result in dismissal. Plaintiff did not respond, and the magistrate judge recommended dismissal without prejudice and closure of the case, subject to review by a district judge under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- *Bautista v. Los Angeles County*, 216 F.3d 837, 841 (9th Cir. 2000)
- *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995)

- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-62 (9th Cir. 1992)
- *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
- *Malone v. U.S. Postal Service*, 833 F.2d 128, 130, 132-33 (9th Cir. 1987)
- *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986)
- *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998)
- *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(PC) Jackson v. Mike

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 ELIJAH LEE JACKSON, Case No. 2:24-cv-1460-JDP (P) 12 Plaintiff,

13 v. ORDER; FINDINGS AND

RECOMMENDATIONS

14 MIKE,

15 Defendant. 16

17 On February 25, 2025, the court ordered plaintiff to complete and return to the court, 18 within thirty days, the USM-285 forms necessary to effect service on defendant. ECF No. 11. 19 That thirty-day period without word from plaintiff. Therefore, on May 22, 2025, I ordered 20 plaintiff (1) to show cause why this action should not be dismissed for his failure to prosecute and 21 (2) to file the USM-285 forms necessary to effect service on defendant within twenty-one days. 22 ECF No. 12. I also warned plaintiff that his failure to respond would constitute a failure to 23 comply with a court order and would result in dismissal of this case. Plaintiff has not responded, 24 and the time to do so has passed. Accordingly, dismissal is warranted. 25 The court has the inherent power to control its docket and may, in the exercise of that 26 power, impose sanctions where appropriate, including dismissal. *Bautista v. Los Angeles Cnty.*, 27 216 F.3d 837, 841 (9th Cir. 2000); see Local Rule 110 (“Failure of counsel or of a party to 28 comply with these Rules or with any order of the Court may be grounds for imposition by the 1 Court of any and all sanctions . . . within the inherent power of the Court.”). 2 A court may dismiss an action based on a party’s failure to prosecute an action, failure to 3 obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 4 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 5 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order to file an amended 6 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to 7 comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. 8 U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court 9 order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir.

1986) (dismissal for lack of 10 prosecution and failure to comply with local rules). 11 In recommending that this action be dismissed for failure to prosecute and failure to 12 comply with court orders, I have considered “(1) the public’s interest in expeditious resolution of 13 litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; 14 (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less 15 drastic alternatives.” *Ferdik*, 963 F.2d at 1260-61 (citation omitted). 16 Plaintiff has failed to respond to court orders. See ECF Nos. 11 & 12. Therefore, the 17 public interest in expeditious resolution of litigation, the court’s need to manage its docket, and 18 the risk of prejudice to the defendant all cut in favor of the sanction of dismissal. My warning to 19 plaintiff that failure to obey court orders will result in dismissal satisfies the “considerations of 20 the alternatives” requirement.¹ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 at 132-33; *Henderson*, 779 21 F.2d at 1424. Plaintiff had adequate warning that dismissal could result from his noncompliance. 22 Accordingly, I find that the balance of factors weighs in favor of dismissal. 23 Accordingly, it is hereby ORDERED that the Clerk of Court randomly assign a district 24 judge to this matter. 25 Further, it is hereby RECOMMENDED that: 26 1. This action be DISMISSED without prejudice for failure to prosecute and failure to 27 1 The May 22 order expressly warned plaintiff that his failure to comply with court orders 28 would result in dismissal. ECF No. 12. 1 | comply with court orders for the reasons set forth in the February 25, 2025 order. 2 2. The Clerk of Court be directed to close the case. 3 These findings and recommendations are submitted to the United States District Judge 4 | assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of 5 | service of these findings and recommendations, any party may file written objections with the 6 || court and serve a copy on all parties. Any such document should be captioned “Objections to 7 | Magistrate Judge’s Findings and Recommendations,” and any response shall be served and filed 8 | within fourteen days of service of the objections. The parties are advised that failure to file 9 | objections within the specified time may waive the right to appeal the District Court’s order. See 10 | *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 11 1991). 12 3 IT IS SO ORDERED. 14 (ie — Dated: _ July 30, 2025 aw——

15 JEREMY D. PETERSON

16 UNITED STATES MAGISTRATE JUDGE

17 18 19 20 21 22 23 24 25 26 27 28