

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Santos Ovalle v. Orange County Sheriff Department

Santos Ovalle · No. 8:22-cv-02198-MCS-KES · Decided March 9, 2023

SUMMARY

The United States District Court for the Central District of California dismissed Santos Ovalle’s 42 U.S.C. § 1983 action without prejudice for failure to prosecute. The court concluded that Plaintiff failed to comply with an order granting leave to amend after the complaint was screened and found deficient. The dismissal was entered under Federal Rule of Civil Procedure 41(b) and Central District of California Local Rule 41-1.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Mark C. Scarsi
JURISDICTION	United States District Court for the Central District of California
DECIDED	March 9, 2023
DOCKET	8:22-cv-02198-MCS-KES
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a pro se 42 U.S.C. § 1983 complaint and sought to proceed in forma pauperis. After screening the complaint under 28 U.S.C. § 1915(e)(2), the court dismissed it with leave to amend. Plaintiff did not respond by the deadline, and the court dismissed the action without prejudice for failure to prosecute.
STANDARD OF REVIEW	The court applied its discretionary standard for dismissal for failure to prosecute or failure to comply with court orders, considering the Ninth Circuit’s five-factor test concerning expeditious resolution, docket management, prejudice, less drastic sanctions, and disposition on the merits.
PRECEDENTIAL VALUE	unpublished and nonprecedential district court order
PARTIES	Santos Ovalle v. Orange County Sheriff Department, et al.

TOPICS

civil procedure

section 1983

civil rights

PRACTICE AREAS

civil procedure

civil rights

prisoner civil rights

QUESTIONS PRESENTED

1. Whether the action should be dismissed for failure to prosecute and failure to comply with the court's order requiring a response.
2. Whether dismissal should be with or without prejudice.

HOLDINGS

1. A district court may dismiss an action under Federal Rule of Civil Procedure 41(b) and applicable local rules when a plaintiff fails to prosecute the action or comply with a court order. Applying the Ninth Circuit's five-factor test, dismissal was warranted because Plaintiff failed to respond after receiving a warning and the action had come to a complete halt.
2. The dismissal should be without prejudice.

KEY QUOTATIONS

"IT IS THEREFORE ORDERED that Judgment will be entered dismissing this action without prejudice for failure to prosecute." (at 5)

FACTUAL BACKGROUND

Plaintiff alleged that unknown Orange County Jail deputies shot BB pellets through his cell vents while he was housed at the jail during proceedings under California's Sexually Violent Predator Act. He alleged that the injuries caused gangrene and resulted in the amputation of several fingers. The complaint asserted § 1983 claims against the sheriff's department, deputies, and treating doctors, but the court previously found the pleading deficient and gave Plaintiff leave to amend. Plaintiff did not file an amended complaint or otherwise respond.

PROCEDURAL HISTORY

Plaintiff filed his complaint in December 2022. On January 20, 2023, the court found that the complaint failed to state a claim and granted leave to amend, warning that failure to respond could result in dismissal. Plaintiff's response was due February 21, 2023, but he filed nothing further. The court therefore dismissed the action under Federal Rule of Civil Procedure 41(b) and Central District of California Local Rule 41-1.

DISPOSITION

dismissed

CASES CITED

- *Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000) (en banc)

- Monell v. Department of Social Services, 436 U.S. 658 (1978)
- Link v. Wabash R. Co., 370 U.S. 626, 629-30 (1962)
- Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995) (per curiam)
- Al-Torki v. Kaempfen, 78 F.3d 1381, 1385 (9th Cir. 1996)
- In re Phenylpropanolamine (PPA) Prods. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006)
- Valley Eng'rs v. Elec. Eng'g Co., 158 F.3d 1051, 1057 (9th Cir. 1998)
- Yourish v. Cal. Amplifier, 191 F.3d 983, 990 (9th Cir. 1999)
- Pagtalunan v. Galaza, 291 F.3d 639, 642-43 (9th Cir. 2002)
- Hunter v. Sandoval, No. 17-cv-09257-CJC-SHK, 2018 U.S. Dist. LEXIS 210543, at *5, 2018 WL 6570870, at *2 (C.D. Cal. Dec. 12, 2018)

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