

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Dejane Draper, et al. v. Las Vegas Metropolitan Police Department, et al.

Draper · No. 2:25-cv-01119-JAD-MDC · Decided December 22, 2025

SUMMARY

The United States District Court for the District of Nevada adopted a magistrate judge’s report and recommendation and dismissed the case. The dismissal was based on the plaintiffs’ failure to pay the filing fee or submit a renewed in forma pauperis application, comply with an order concerning representation of minor plaintiffs, or otherwise prosecute the action.

CASE DETAILS

COURT	United States District Court for the District of Nevada
WRITING FOR THE COURT	Jennifer A. Dorsey
JURISDICTION	United States District Court for the District of Nevada
DECIDED	December 22, 2025
DOCKET	2:25-cv-01119-JAD-MDC
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court adopted the magistrate judge's report and recommendation and dismissed the action after the plaintiffs failed to pay the filing fee or submit a new in forma pauperis application, failed to obtain counsel for purported minor plaintiffs or clarify that they were adults, and failed to object to the recommendation.
STANDARD OF REVIEW	The district court reviewed the magistrate judge's report and recommendation because no objections were filed and found good cause to adopt it. The dismissal analysis applied the Ninth Circuit's five-factor framework for dismissal for failure to prosecute, failure to obey a court order, or failure to comply with local rules.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

sanctions

civil procedure

section 1983

civil rights

PRACTICE AREAS

civil procedure

civil rights

federal litigation

QUESTIONS PRESENTED

1. Whether the district court could dismiss the action for failure to comply with court orders and failure to prosecute.
2. Whether the Ninth Circuit's five-factor dismissal framework supported dismissal under the circumstances.
3. Whether adoption of the magistrate judge's report and recommendation was appropriate when no party filed objections.

HOLDINGS

1. A district court may dismiss an action under its inherent docket-management authority when a party fails to obey a court order or otherwise fails to prosecute the action.
2. Dismissal was warranted because the public interest in expeditious resolution, the court's need to manage its docket, the risk of prejudice to defendants, and the lack of a meaningful lesser sanction outweighed the public policy favoring disposition on the merits.
3. When no objections are filed, no review of the magistrate judge's report and recommendation is required, and the district court may adopt it upon finding good cause.

KEY QUOTATIONS

“Courts “need not exhaust every sanction short of dismissal before finally dismissing a case but must explore possible and meaningful alternatives.”” (at 2)

“IT IS THEREFORE ORDERED that the Magistrate Judge’s Report and Recommendation [ECF No. 5] is ADOPTED in its entirety, and THIS CASE IS DISMISSED for the reasons stated in the report and recommendation.” (at 3)

FACTUAL BACKGROUND

The plaintiffs did not comply with an order requiring payment of the filing fee or submission of a new in forma pauperis application. They also failed to obtain counsel for children listed as plaintiffs if those children were minors or clarify that the children were adults. No plaintiff took any required action before the deadline expired.

PROCEDURAL HISTORY

The court had previously denied DeJane Draper's in forma pauperis application and ordered compliance with filing-fee and representation requirements. No plaintiff complied, paid the filing fee, obtained counsel, or filed a response by the deadline. The magistrate judge recommended dismissal, and because no objections were filed, the district judge adopted the recommendation in its entirety and directed the clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Thompson v. Housing Authority of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986)
- Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987)
- Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986)
- In re Phenylpropanolamine Products Liability Litigation, 460 F.3d 1217, 1226 (9th Cir. 2006)
- Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976)
- Yourish v. California Amplifier, 191 F.3d 983, 992 (9th Cir. 1999)
- Pagtalunan v. Galaza, 291 F.3d 639, 643 & n.4 (9th Cir. 2002)
- United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003)

OPINION

UNITED STATES DISTRICT COURT 2 DISTRICT OF NEVADA 3 4 5 DeJane Draper, et al., Case No. 2:25-cv-01119-JAD-MDC 6 ORDER ADOPTING REPORT AND Plaintiffs, RECOMMENDATION AND 7 vs. DISMISSING CASE 8 Las Vegas Metropolitan Police Department, et al., 9 Defendants. 10 11 On 12/3/25, the magistrate judge entered this report and recommendation [ECF No. 5]: 12 The Court previously denied plaintiff DeJane Draper's ("Draper") IFP application and ordered 13 him to either pay the filing fee or file a new in forma pauperis ("IFP") application.

ECF No. 4. The 14 Court also ordered Draper to obtain counsel for his children he listed as plaintiffs if they were minor- 15 aged or clarify that his children are adults. Id. No plaintiff has filed anything, paid the filing fee, or 16 obtained counsel, and the deadline to do so has passed. It appears that plaintiffs have abandoned this 17 case. 18 The Court RECOMMENDS that this case be dismissed.

19 I. LEGAL STANDARD 20 District courts have the inherent power to control their dockets and "[i]n the exercise of that 21 power, they may impose sanctions including, where appropriate... dismissal" of a case. Thompson v. 22 Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action 23 based on a party's failure to obey a court order or comply with local rules.

Malone v. U.S. Postal 24 Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); Henderson 25 v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules). 1 In determining whether to dismiss an action on one of these grounds, the court must consider: (1) 2 the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) 3 the risk of

prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; 4 and (5) the availability of less drastic alternatives.

In re Phenylpropanolamine Prod. Liab. Litig., 460 5 F.3d 1217, 1226 (9th Cir. 2006) (quoting Malone v. U.S. Postal Serv., 833 F.2d 128, 130 (9th Cir. 6 1987)). 7 II. ANALYSIS 8 The first two factors, the public's interest in expeditiously resolving this litigation and the court's 9 interest in managing its docket, weigh in favor of dismissal of the plaintiff's case.

Plaintiff has chosen 10 not to comply with this Court's Order. The third factor, risk of prejudice to defendants, also weighs in 11 favor of dismissal because a presumption of injury arises from the occurrence of unreasonable delay in 12 prosecuting an action. See Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976).

The fourth factor— 13 the public policy favoring disposition of cases on their merits—is greatly outweighed by the factors 14 favoring dismissal. 15 The fifth factor requires the Court to consider whether less drastic alternatives can be used to 16 correct the party's failure that brought about the Court's need to consider dismissal. Yourish v. Cal. 17 Amplifier, 191 F.3d 983, 992 (9th Cir.

1999) (explaining that considering less drastic alternatives before 18 the party has disobeyed a Court order does not satisfy this factor); accord Pagtalunan v. Galaza, 291 19 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases 20 that “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the Court's Order as 21 satisfying this element[,]” i.e., like the “initial granting of leave to amend coupled with the warning of 22 dismissal for failure to comply[,]” have been “eroded” by Yourish).

Courts “need not exhaust every 23 sanction short of dismissal before finally dismissing a case but must explore possible and meaningful 24 alternatives.” Henderson, 779 F.2d at 1424. 25 1 This Court cannot operate without collecting reasonable fees and litigation cannot progress 2 || without a plaintiff's compliance with Court orders.

The only alternative is to enter another order setting 3 || another deadline. Issuing another order, however, will only delay the inevitable and further squander the 4 || Court's finite resources. Setting another deadline is not a meaningful alternative given these 5 || circumstances.

The fifth factor favors dismissal. 6 After weighing these dismissal factors, the Court finds that they weigh in favor of dismissal. For 7 || the reasons discussed in this Order and the Court's earlier Order (ECF No. 4), plaintiffs' case should be 8 || dismissed. 9 IT IS RECOMMENDED THAT this case be DISMISSED. 10 Dated: December 3, 2025. 11 13 Hon. imiliago I. Cowvillier I Und States Magistrate Judge 14 ORDER 15 6 The deadline for any party to object to this recommendation was 12/17/2025, and no party filed anything or asked to extend the deadline to do so. “[N]o review is required of a magistrate 1g || Judge's report and recommendation unless objections are filed.” United States v. Reyna-Tapia, 328 19 || F.3d 1114, 1121 (9th Cir.

2003). Having reviewed the report and recommendation, I find good cause 20 || to adopt it, and I do. IT IS THEREFORE ORDERED that the Magistrate Judge's Report and 21 [] Recommendation [ECF No. 5] is ADOPTED in its entirety, and THIS CASE IS DISMISSED for 22 || the reasons stated in the report and recommendation.

The Clerk of Court is directed to CLOSE * || THIS CASE. oot US. District Judge Fennifer. Dorsey
25 Dated: December 22, 2025