

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

McVay v. Rodriguez

McVay · No. 1:24-cv-1059 JLT BAM (PC) · Decided July 22, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations in Darron McVay’s 42 U.S.C. § 1983 action. The court dismissed the action without prejudice for failure to obey a court order and failure to prosecute, and directed the Clerk of Court to close the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 22, 2025
DOCKET	1:24-cv-1059 JLT BAM (PC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed and adopted a magistrate judge's findings and recommendations recommending dismissal without prejudice for failure to obey a court order and failure to prosecute.
STANDARD OF REVIEW	De novo review of the magistrate judge's findings and recommendations under 28 U.S.C. § 636(b)(1).
PRECEDENTIAL VALUE	Unpublished district-court order; precedential status is unknown and no reporter citation appears.

TOPICS

- sanctions
- civil procedure
- section 1983
- prisoners rights
- remedies

PRACTICE AREAS

- civil procedure
- civil rights
- prisoner litigation
- remedies

QUESTIONS PRESENTED

1. Whether the magistrate judge's recommendation to dismiss the action without prejudice for failure to obey a court order and failure to prosecute should be adopted.

2. Whether terminating sanctions were appropriate under the applicable Ninth Circuit factors.

HOLDINGS

1. The district court adopted the findings and recommendations in full after conducting de novo review and determining that they were supported by the record and proper analysis.
2. The action was dismissed without prejudice because Plaintiff failed to obey a court order and failed to prosecute the action.

KEY QUOTATIONS

“The magistrate judge found Plaintiff failed to prosecute this action and failed to obey the Court’s order.” (at 2)

“This action is DISMISSED without prejudice, due to Plaintiffs failure to obey a court order and failure to prosecute.” (at 3)

FACTUAL BACKGROUND

Plaintiff was a former state prisoner proceeding pro se and in forma pauperis in a § 1983 action. Following screening, the court allowed him to amend his complaint, but he filed an unsigned amended complaint. The court struck that pleading and ordered him to file a signed complaint complying with Federal Rule of Civil Procedure 11(a) and Local Rule 131(b); Plaintiff did not respond or file the required pleading.

PROCEDURAL HISTORY

Plaintiff filed a pro se, in forma pauperis civil-rights action under 42 U.S.C. § 1983. After screening under 28 U.S.C. § 1915A, the court found the complaint failed to state a cognizable claim and allowed amendment. Plaintiff filed an unsigned amended complaint, which the court struck, and then failed to file a signed complaint or respond to the court's order. The magistrate judge recommended dismissal without prejudice; Plaintiff filed no objections, and the district court conducted de novo review, adopted the recommendations, dismissed the action, and directed the clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 1986)
- Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014)

OPINION

(PC) McVay v. Rodriguez

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 DARRON MCVAY, Case No. 1:24-cv-1059 JLT BAM (PC) 12 Plaintiff, ORDER
ADOPTING FINDINGS AND

RECOMMENDATIONS, DISMISSING THE

13 v. ACTION WITHOUT PREJUDICE, AND

DIRECTING THE CLERK OF COURT TO

14 RODRIGUEZ, et al., CLOSE THE CASE 15 Defendants. (Doc. 16) 16 17 Darron McVay is a
former state prisoner proceeding pro se and in forma pauperis in this 18 civil rights action pursuant
to 42 U.S.C. § 1983. The Court screened the complaint pursuant to 28 19 U.S.C. § 1915A and
found he failed to state a cognizable claim. (Doc. 9.) The Court provided 20 the applicable legal
standards and granted Plaintiff the opportunity to file an amended complaint. 21 (Id. at 3-6.) After
Plaintiff filed an unsigned amended complaint, the Court struck the pleading 22 and directed him
to file a signed complaint in compliance with Fed. R. Civ. P. 11(a) and Local

23 Rule 131(b). (Doc. 14.) Plaintiff failed to respond to the Court's order or file a signed
complaint.

24 The magistrate judge found Plaintiff failed to prosecute this action and failed to obey the 25
Court's order. (Doc. 16 at 1-2.) The magistrate judge found terminating sanctions are 26
appropriate after considering the factors identified by the Ninth Circuit in *Henderson v. Duncan*,
27 779 F.2d 1421, 1423 (9th Cir. 1986). (Id. at 2-3.) Therefore, the magistrate judge recommended
28 the Court dismiss the action without prejudice. (Id. at 3.) 1 The Court served the Findings and
Recommendations on Plaintiff and notified him that 2 | any objections were due within 30 days.
(Doc. 16 at 4.) The Court advised Plaintiff that "failure 3 | to file objections within the specified
time may result in the waiver of the 'right to challenge the 4 | magistrate's factual findings' on
appeal." (d., quoting *Wilkerson v. Wheeler*, 772 F.3d 834, 839 5 | (9th Cir. 2014).) Plaintiff did not
file objections, and the time to do so has passed. 6 According to 28 U.S.C. § 636(b)(1), this Court
performed a de novo review of the case. 7 | Having carefully reviewed the matter, the Court
concludes the Findings and Recommendations 8 || are supported by the record and proper analysis.
Thus, the Court ORDERS: 9 1. The Findings and Recommendations issued on June 26, 2025
(Doc. 16) are 10 ADOPTED in full. 11 2. This action is DISMISSED without prejudice, due to
Plaintiffs failure to obey a 12 court order and failure to prosecute. 13 3. The Clerk of Court is
directed to close this case. 14 15 IT IS SO ORDERED. 16 | Dated: _ July 21, 2025 Charis [Tourn
TED STATES DISTRICT JUDGE

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