

**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

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