

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Gilmore v. Castillo

Gilmore · No. 1:21-cv-00617 JLT GSA (PC) · Decided August 29, 2025

SUMMARY

The document contains findings and recommendations by a United States Magistrate Judge in a prisoner civil rights action under 42 U.S.C. § 1983. It recommends granting the defendant’s motion for terminating sanctions under Federal Rule of Civil Procedure 37(b)(2)(A)(v) and dismissing the action with prejudice because the plaintiff failed to comply with discovery orders and prosecute the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Gary S. Austin
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 29, 2025
DOCKET	1:21-cv-00617 JLT GSA (PC)
DISPOSITION	other
PROCEDURAL POSTURE	A magistrate judge issued findings and recommendations on Defendant's motion for terminating sanctions, recommending that the motion be granted and the prisoner's § 1983 action be dismissed with prejudice. The recommendation was subject to objections and review by the assigned district judge under 28 U.S.C. § 636(b)(1).
STANDARD OF REVIEW	A dismissal under Federal Rule of Civil Procedure 37 is reviewed for abuse of discretion. The magistrate judge applied the Ninth Circuit's five-factor framework for dismissal based on failure to comply with a court order and considered whether lesser sanctions had been adequately examined.
PRECEDENTIAL VALUE	Unknown; magistrate judge's findings and recommendations in an unpublished district-court matter

TOPICS

- sanctions
- discovery dispute
- civil procedure
- prisoners rights
- section 1983

PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

QUESTIONS PRESENTED

1. Whether terminating sanctions under Federal Rule of Civil Procedure 37(b)(2)(A)(v) were warranted because Plaintiff failed to obey discovery-related court orders.
2. Whether dismissal with prejudice was warranted under Federal Rule of Civil Procedure 41(b) and Local Rule 110 for failure to prosecute and failure to comply with court orders.
3. Whether the Ninth Circuit's Malone factors and consideration of less drastic sanctions supported dismissal.

HOLDINGS

1. When a party fails to obey a discovery order, Federal Rule of Civil Procedure 37(b)(2)(A)(v) permits dismissal of the action in whole or in part; on the record presented, terminating sanctions were supported.
2. Dismissal with prejudice was warranted under Federal Rule of Civil Procedure 41(b) and Local Rule 110 because Plaintiff failed to prosecute the action and failed to comply with court orders.
3. The five Malone factors supported dismissal, and the record showed that no less drastic sanction was adequate because Plaintiff had received repeated extensions, additional opportunities to comply, and an explicit warning that continued noncompliance could result in dismissal.

KEY QUOTATIONS

“A district court must weigh five factors in determining whether to dismiss a case for failure to comply with a court order: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on the merits; and (5) the availability of less drastic sanctions.”” (at 6)

“In sum, there is no less drastic option than dismissal.” (at 7-8)

FACTUAL BACKGROUND

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, brought a civil-rights action under 42 U.S.C. § 1983. The court ordered Plaintiff to respond to Defendant's discovery requests and later gave him additional time and alternative means to comply, including serving responses or responding to the motion to compel. Plaintiff did neither and also failed to respond to Defendant's motion for terminating sanctions after being warned that continued noncompliance could lead to dismissal.

PROCEDURAL HISTORY

After screening the complaint, the court granted Plaintiff multiple extensions to amend or elect to proceed on the screened complaint. Plaintiff eventually elected to proceed on the screened complaint, which was served, and Defendant answered. During discovery, Plaintiff received extensions and additional opportunities to respond to

discovery and to Defendant's motion to compel, but failed to provide responses. Defendant then moved for terminating sanctions, and Plaintiff failed to oppose that motion despite a warning that noncompliance could result in dismissal.

DISPOSITION

other

CASES CITED

- Roberts v. Marshall, 627 F.3d 768, 769 n.1 (9th Cir. 2010)
- Jenkins v. Johnson, 330 F.3d 1146, 1149 n.2 (9th Cir. 2003)
- Pace v. DiGuglielmo, 544 U.S. 408 (2005)
- Leon v. IDX Systems Corp., 464 F.3d 951, 958 (9th Cir. 2006)
- Anheuser-Busch, Inc. v. Natural Beverage Distributors, 69 F.3d 337, 348 (9th Cir. 1995)
- Malone v. United States Postal Service, 833 F.2d 128, 130 (9th Cir. 1987)
- Thompson v. Housing Authority of City of Los Angeles, 782 F.2d 829 (9th Cir. 1986) (per curiam)
- Adriana International Corp. v. Thoeren, 913 F.2d 1406, 1412-13 (9th Cir. 1990)
- Whitaker v. Superior Court of San Francisco, 514 U.S. 208, 210 (1995)
- Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014)
- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)