

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Hurtado v. Sylvan

Hurtado · No. 2:21-cv-00888-JDP (PC) · Decided March 7, 2023

SUMMARY

The United States District Court for the Eastern District of California orders plaintiff Angel Hurtado to show cause why sanctions should not be imposed for failing to file a required status report. The court continues the initial scheduling conference, sets a deadline for the status report and response, and warns that noncompliance may result in a recommendation of dismissal for lack of prosecution and failure to comply with court orders.

CASE DETAILS

|                       |                                                                                                                                                                         |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                                                     |
| WRITING FOR THE COURT | Jeremy D. Peterson                                                                                                                                                      |
| JURISDICTION          | United States District Court for the Eastern District of California                                                                                                     |
| DECIDED               | March 7, 2023                                                                                                                                                           |
| DOCKET                | 2:21-cv-00888-JDP (PC)                                                                                                                                                  |
| DISPOSITION           | other                                                                                                                                                                   |
| PROCEDURAL POSTURE    | In a prisoner civil-rights action, the court issued an order to show cause why sanctions should not be imposed after plaintiff failed to file a required status report. |
| PRECEDENTIAL VALUE    | Nonprecedential district-court order                                                                                                                                    |
| PARTIES               | Angel Hurtado v. Sylvan                                                                                                                                                 |

TOPICS

sanctions

civil procedure

PRACTICE AREAS

civil procedure

prisoner civil rights

QUESTIONS PRESENTED

1. Whether the court should require plaintiff to show cause why sanctions should not be imposed for failing to comply with the court's order requiring a status report.
2. Whether failure to comply with the show-cause order could support a recommendation that the action be dismissed for failure to prosecute and failure to comply with court orders.

## HOLDINGS

1. A district court may dismiss an action for a plaintiff's failure to prosecute or failure to comply with court orders or local rules, although involuntary dismissal is a harsh penalty.

## KEY QUOTATIONS

*"Involuntary dismissal is a harsh penalty, but a district court has a duty to administer justice expeditiously and avoid needless burden for the parties."* (at 1)

*"Failure to comply with this order may result in the imposition of sanctions, including a recommendation that this action be dismissed for lack of prosecution and for failure to comply with court orders."* (at 2)

## FACTUAL BACKGROUND

The court's February 1, 2023 order set an initial scheduling conference for March 9, 2023, and required the parties to submit status reports by February 23, 2023. Defendant timely submitted a report, but plaintiff failed to submit one. The court therefore issued an order requiring plaintiff to explain the failure, file the status report, and comply with the new deadlines.

## PROCEDURAL HISTORY

The court had ordered the parties to file status reports by February 23, 2023, in advance of an initial scheduling conference. Defendant filed a timely report, but plaintiff did not. The court continued the scheduling conference, ordered plaintiff to file the overdue status report, and required plaintiff to show cause why sanctions should not be imposed, warning that noncompliance could lead to a recommendation of dismissal.

## DISPOSITION

other

## CASES CITED

- *Hells Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005)
- *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
- *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002)

## OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF  
CALIFORNIA 10 11 ANGEL HURTADO, Case No. 2:21-cv-00888-JDP (PC) 12 Plaintiff,  
ORDER TO SHOW CAUSE WHY SANCTIONS SHOULD NOT BE IMPOSED 13 v. FOR

FAILURE TO COMPLY WITH COURT ORDERS 14 SYLVAN, ECF No. 17 15 Defendant. 16  
17 On February 1, 2023, I issued an order setting an initial scheduling conference for March 18 9,  
2023, and directing the parties to file status reports by no later than February 23, 2023.

19 ECF No. 17. Defendant timely submitted a status report. Plaintiff, however, failed to file his 20  
own status report. 21 To manage its docket effectively, the court imposes deadlines on litigants and  
requires 22 litigants to meet those deadlines.

The court may dismiss a case for plaintiff's failure to prosecute 23 or failure to comply with its  
orders or local rules. See Fed. R. Civ. P. 41(b); Hells Canyon Pres. 24 Council v. U.S. Forest Serv.,  
403 F.3d 683, 689 (9th Cir. 2005); Carey v. King, 856 F.2d 1439, 25 1440-41 (9th Cir. 1988).  
Involuntary dismissal is a harsh penalty, but a district court has a duty to 26 administer justice  
expeditiously and avoid needless burden for the parties.

See Pagtalunan v. 27 Galaza, 291 F.3d 639, 642 (9th Cir. 2002); Fed. R. Civ. P. 1. 28 1 I will give  
plaintiff the opportunity to explain why sanctions should not be imposed for 2 | failure to file a  
status report. Plaintiff's failure to respond to this order will constitute another 3 | failure to comply  
with a court order and will result in a recommendation that this action be 4 | dismissed.

Should plaintiff wish to continue with this lawsuit, he shall also file a status report as 5 || required  
by the court's February 1, 2023 order. 6 Accordingly, it is hereby ORDERED that: 7 1. The initial  
scheduling conference currently set for March 9, 2023, is continued to April 8 | 13, 2023. 9 2. By  
no later than March 30, 2023, plaintiff shall file a status report in accordance with 10 | the court's  
February 1, 2023 order.

See ECF No. 17. 11 3. Plaintiff shall show cause, by no later than March 30, 2023, why sanctions  
should not 12 | be imposed for failure to comply with the court's February 1, 2023 order. 13 4.  
Failure to comply with this order may result in the imposition of sanctions, including a 14 |  
recommendation that this action be dismissed for lack of prosecution and for failure to comply 15 |  
with court orders.

16 7 IT IS SO ORDERED. 18 ( q oy — Dated: \_ March 7, 2023 q—— 19 JEREMY D.  
PETERSON UNITED STATES MAGISTRATE JUDGE 21 22 23 24 25 26 27 28