

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Ricardo Jose Calderon Lopez v. Doe Viramontes, et al.

Calderon Lopez v. Viramontes · No. CV 24-10889-DMG (SHK) · Decided February 24, 2025

SUMMARY

The United States District Court for the Central District of California dismissed Ricardo Jose Calderon Lopez's action without prejudice. The court found that he failed to comply with an order requiring corrected filings and dismissed the case for failure to prosecute and failure to comply with a court order.

CASE DETAILS

COURT	United States District Court for the Central District of California
WRITING FOR THE COURT	Dolly M. Gee, Chief United States District Judge
JURISDICTION	United States District Court for the Central District of California
DECIDED	February 24, 2025
DOCKET	CV 24-10889-DMG (SHK)
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court dismissed the action without prejudice for failure to prosecute and failure to comply with a court order after Plaintiff failed to timely refile corrected documents.
STANDARD OF REVIEW	The court considered the five Henderson factors governing dismissal for failure to prosecute or failure to comply with a court order.
PRECEDENTIAL VALUE	Unpublished district court order; no precedential status stated.
PARTIES	Ricardo Jose Calderon Lopez v. Doe Viramontes, et al.

TOPICS

sanctions

civil procedure

PRACTICE AREAS

Civil procedure

Federal civil rights litigation

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for failure to prosecute and failure to comply with a court order.

HOLDINGS

1. Dismissal without prejudice was warranted because all five factors—the public interest in expeditious resolution, the court's need to manage its docket, the risk of prejudice to defendants, the policy favoring disposition on the merits, and the availability of less drastic sanctions—favored dismissal.

KEY QUOTATIONS

“Five factors apply when considering whether to dismiss an action for failure to prosecute or 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 their merits; and (5) the availability of less drastic sanctions.”” (1)

FACTUAL BACKGROUND

The court had repeatedly apprised Calderon Lopez of filing deficiencies and, on January 3, 2025, struck his complaint and related applications. It allowed him until January 17, 2025, to refile corrected documents and warned that noncompliance would result in dismissal without prejudice. Calderon Lopez did not timely comply or take further action, leading the court to conclude that he appeared to have abandoned the case.

PROCEDURAL HISTORY

The court previously struck Plaintiff’s complaint, application to file electronically, and request to proceed in forma pauperis because of filing deficiencies, and gave him until January 17, 2025, to submit corrected documents. The court warned that failure to comply would result in dismissal without prejudice. Plaintiff did not timely comply or take further action, so the court dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 1986)

OPINION

Ricardo Jose Calderon Lopez v. Doe Viramontes

PER CURIAM.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES—GENERAL

Case No. CV 24-10889-DMG (SHK) Date February 24, 2025 Title Ricardo Jose Calderon Lopez

v. Doe Viramontes, et al. Page 1 of 1 Present: The Honorable DOLLY M. GEE, CHIEF UNITED STATES DISTRICT JUDGE

DEREK DAVIS NOT REPORTED

Deputy Clerk Court Reporter Attorneys Present for Plaintiff(s) Attorneys Present for Defendant(s)
None Present None Present Proceedings: [IN CHAMBERS] ORDER DISMISSING ACTION WITHOUT PREJUDICE

On January 3, 2025, the Court struck Plaintiff Ricardo Jose Calderon Lopez's complaint, application to file electronically, and request to proceed in forma pauperis for filing deficiencies of which the Court had repeatedly apprised him. [Doc. # 12.] The Court gave Calderon Lopez until January 17, 2025 to re-file corrected documents. The Court further warned him that failure to comply with this deadline would result in dismissal of this action without prejudice for failure to prosecute and to comply with a Court Order. Calderon Lopez has not timely complied with that order or taken any further action in this matter. He appears to have abandoned the case. Five factors apply when considering whether to dismiss an action for failure to prosecute or 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 their merits; and (5) the availability of less drastic sanctions." *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986). These factors all favor dismissal here. Calderon Lopez's failure to litigate this action notwithstanding the Court's explanation and opportunity to file corrected documents weighs in favor of dismissal. It appears he does not intend to or cannot litigate this action or comply with the Court's instructions. Dismissal will not prejudice the defense at this early stage. Nor will maintaining this action result in a disposition on the merits, in light of the lack of prosecution. Finally, the Court has already attempted less drastic measures. Therefore, the Court DISMISSES this action without prejudice. IT IS SO ORDERED.