

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

James Ray Myers v. Jeremy Bean, et al.

Myers · No. 3:25-cv-00181-MMD-CSD · Decided December 23, 2025

SUMMARY

The United States District Court for the District of Nevada dismissed James Ray Myers’s 42 U.S.C. § 1983 action without prejudice after he failed to file a second amended complaint by the court-ordered deadline. Applying Ninth Circuit dismissal factors, the court concluded that dismissal was warranted for failure to comply with the court’s order and failure to state a claim. The court granted in forma pauperis status but ordered collection of the full filing fee from the plaintiff’s inmate account.

OPINION

2 3 UNITED STATES DISTRICT COURT 4 DISTRICT OF NEVADA 5 * * * 6 JAMES RAY
MYERS, Case No. 3:25-cv-00181-MMD-CSD 7 Plaintiff, ORDER v. 8 JEREMY BEAN, et al., 9
Defendants. 10 11 12 Plaintiff James Ray Myers brings this civil rights action under 42 U.S.C. §
1983 to 13 redress constitutional violations he claims he suffered while incarcerated. (ECF No. 5.)
14 On November 14, 2025, the Court ordered Plaintiff to file a second amended complaint 15 by
December 14, 2025.

(ECF No. 6 at 6.) The Court warned Plaintiff that the action could 16 be dismissed if he failed to
file a second amended complaint by that deadline. (Id.) That 17 deadline expired, and Plaintiff did
not file an amended complaint, move for an extension, 18 or otherwise respond. 19 I.
DISCUSSION 20 District courts have the inherent power to control their dockets and “[i]n the 21
exercise of that power, they may impose sanctions including, where appropriate...

22 dismissal” of a case. *Thompson v. Hous. Auth. of City of L.A.*, 782 F.2d 829, 831 (9th Cir. 23
1986). A court may dismiss an action based on a party’s failure to obey a court order or 24 comply
with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) 25 (affirming
dismissal for failure to comply with local rule requiring pro se plaintiffs to keep 26 court apprised
of address); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir.

1987) 27 (dismissal for failure to comply with court order). In determining whether to dismiss an
28 action on one of these grounds, the Court must consider: (1) the public’s interest in 2 of
prejudice to the defendants; (4) the public policy favoring disposition of cases on their 3 merits;
and (5) the availability of less drastic alternatives. See *In re Phenylpropanolamine 4 Prod.*

Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*, 833 F.2d at 130). 5 The first
two factors, the public’s interest in expeditiously resolving this litigation 6 and the Court’s interest

in managing its docket, weigh in favor of dismissal of Plaintiff's 7 claims.

The third factor, risk of prejudice to defendants, also weighs in favor of dismissal 8 because a presumption of injury arises from the occurrence of unreasonable delay in filing 9 a pleading ordered by the court or prosecuting an action. See *Anderson v. Air West*, 542 10 F.2d 522, 524 (9th Cir. 1976).

The fourth factor—the public policy favoring disposition of 11 cases on their merits—is greatly outweighed by the factors favoring dismissal. 12 The fifth factor requires the Court to consider whether less drastic alternatives can 13 be used to correct the party's failure that brought about the Court's need to consider 14 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir.

1999) (explaining 15 that considering less drastic alternatives before the party has disobeyed a court order 16 does not satisfy this factor); accord *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th 17 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that 18 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court's 19 order as satisfying this element[,]” i.e., like the “initial granting of leave to amend coupled 20 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).

21 Courts “need not exhaust every sanction short of dismissal before finally dismissing a 22 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779 23 F.2d 1421, 1424 (9th Cir. 1986).

Because this action cannot realistically proceed until and 24 unless Plaintiff files a second amended complaint, the only alternative is to enter a second 25 order setting another deadline. But the reality of repeating an ignored order is that it often 26 only delays the inevitable and squanders the Court's finite resources.

The circumstances 27 here do not indicate that this case will be an exception. There is no hint that Plaintiff needs 28 additional time or evidence that he did not receive the Court's screening order. Setting 1 || another deadline is not a meaningful alternative given these circumstances.

Thus, the 2 || fifth factor favors dismissal. 3 || **II. CONCLUSION** 4 Having thoroughly considered these factors, the Court finds that they weigh in 5 || favor of dismissal. It is therefore ordered that this action is dismissed without prejudice 6 || based on Plaintiff's failure to file a second amended complaint in compliance with the 7 || Court's November 14, 2025 order and for failure to state a claim.

The Clerk of Court is 8 || directed to enter judgment accordingly and close this case. If Plaintiff wishes to pursue 9 || his claims, he must file a complaint in a new case. 10 It is further ordered that Plaintiff's application to proceed in forma pauperis (ECF 11 || No. 4) is granted. Nevertheless, the

full filing fee will still remain due even though this 12 || action is dismissed and is otherwise unsuccessful under 28 U.S.C. § 1915.

13 It is further ordered that, under 28 U.S.C. § 1915, the Nevada Department of 14 || Corrections will forward payments from the account of James Ray Myers, #60234 to the 15 || Clerk of the United States District Court, District of Nevada, 20% of the preceding month's 16 || deposits (in months that the account exceeds \$10.00) until the full \$350 filing fee has 17 || been paid for this action.

The Clerk of the Court will send a copy of this Order to the 18 || Finance Division of the Clerk’s Office. The Clerk will send a copy of this Order to the Chief 19 || of Inmate Services for the Nevada Department of Corrections at 20 || formapauperis @doc.nv.gov. 21 22 DATED THIS 23" Day of December 2025. 23 24 25 MIRANDAM.DU- [REDACTED] UNITED STATES DISTRICT JUDGE 26 27 28