

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Rodarte v. Lester

Rodarte · No. 2:24-cv-3428-DC-CKD (PS) · Decided April 21, 2025

SUMMARY

The document contains findings and recommendations by a United States Magistrate Judge recommending dismissal of Alexander Rodarte’s action under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with court orders. It also recommends that the Clerk close the case and advises the parties of the procedure and deadline for filing objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 21, 2025
DOCKET	2:24-cv-3428-DC-CKD (PS)
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending involuntary dismissal of a removed civil action for failure to prosecute and failure to comply with court orders and local rules.
STANDARD OF REVIEW	Before recommending involuntary dismissal for failure to prosecute, the court weighed the Ninth Circuit's five-factor test: the public interest in expeditious resolution, the court's need to manage its docket, the risk of prejudice to defendants, the public policy favoring disposition on the merits, and the availability of less drastic alternatives.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Alexander Rodarte v. Katherine Lester

TOPICS

- sanctions
- motions to dismiss
- civil procedure

PRACTICE AREAS

civil procedure

federal civil litigation

QUESTIONS PRESENTED

1. Whether the action should be involuntarily dismissed under Federal Rule of Civil Procedure 41(b) because plaintiff failed to prosecute the action.
2. Whether plaintiff's failure to respond to the motion to dismiss and comply with the court's orders and local rules warranted dismissal after consideration of the Ninth Circuit's five-factor test.

HOLDINGS

1. A district court may impose sanctions, including involuntary dismissal under Federal Rule of Civil Procedure 41(b), when a plaintiff fails to prosecute or fails to comply with court orders, the Federal Rules of Civil Procedure, or local rules.
2. Dismissal under Rule 41(b) was warranted because plaintiff's continued failure to respond delayed the case, impaired docket management, created a risk of prejudice, prevented disposition on the merits, and left no adequate less drastic alternative after the court issued a warning and granted additional time.

KEY QUOTATIONS

"Based on evaluation of the Ferdik factors, the undersigned recommends dismissal of the case at this time."
(at 2)

FACTUAL BACKGROUND

Alexander Rodarte proceeded without counsel after defendant Katherine Lester removed the action to federal court. Lester filed a Rule 12 motion to dismiss, but Rodarte did not respond. The court later ordered Rodarte to file an opposition or statement of non-opposition within fourteen days and warned that further failure to respond could lead to sanctions and dismissal. Rodarte did not respond to the order, including after it was re-served at his updated address.

PROCEDURAL HISTORY

Plaintiff filed the action in Sacramento County Superior Court, and defendant removed it to the Eastern District of California on December 10, 2024. Defendant moved to dismiss under Federal Rule of Civil Procedure 12. Plaintiff failed to oppose the motion or comply with a subsequent order directing him to file an opposition or statement of non-opposition, despite being warned that continued noncompliance could result in dismissal under Rule 41(b). The magistrate judge recommended dismissal and closure of the case, subject to objections and review by the assigned district judge.

DISPOSITION

other

CASES CITED

- King v. Atiyeh, 814 F.2d 565, 567 (9th Cir. 1987)
- Chambers v. NASCO, Inc., 501 U.S. 32, 44 (1991)
- Hells Canyon Preservation Council v. U.S. Forest Service, 403 F.3d 683, 689 (9th Cir. 2005)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- Pagtalunan v. Galaza, 291 F.3d 639, 642-43 (9th Cir. 2002)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991)

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