

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Davis v. Rodriguez

No. 1:25-cv-00368-BAM (PC) (E.D. Cal. May 12, 2025) · No. 1:25-cv-00368-BAM (PC) · Decided May 12, 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. The court recommends dismissal without prejudice for failure to obey an order requiring payment of the filing fee or submission of an in forma pauperis application and for failure to prosecute. The plaintiff is given fourteen days to file objections, and the clerk is directed to randomly assign a district judge.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Barbara A. McAuliffe
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 12, 2025
DOCKET	1:25-cv-00368-BAM (PC)
DISPOSITION	other
PROCEDURAL POSTURE	A magistrate judge issued findings and recommendations, and ordered the clerk to randomly assign a district judge, recommending dismissal without prejudice of a prisoner's § 1983 action for failure to obey a court order and failure to prosecute.
STANDARD OF REVIEW	Dismissal for failure to prosecute or failure to obey a court order is evaluated under the Ninth Circuit's five-factor test: the public's 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 sanctions.
PRECEDENTIAL VALUE	unpublished

TOPICS

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

PRACTICE AREAS

civil rights

civil procedure

prisoners rights

remedies

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice because Plaintiff failed to obey the court's order requiring an in forma pauperis application or payment of the filing fee.
2. Whether dismissal without prejudice was warranted for failure to prosecute under the applicable five-factor test.

HOLDINGS

1. A district court may dismiss an action, including without prejudice when appropriate, as a sanction for failure to prosecute, failure to obey a court order, or failure to comply with local rules.
2. Before dismissing an action for failure to prosecute or failure to obey a court order, the court must consider the public interest in expeditious resolution, docket management, prejudice to defendants, the policy favoring decisions on the merits, and the availability of less drastic sanctions.
3. Dismissal without prejudice was the appropriate recommended sanction because Plaintiff failed to comply with the filing-fee order after receiving an express warning, and lesser sanctions were unlikely to be effective.

KEY QUOTATIONS

“In determining whether to dismiss an action, the Court must consider several factors: (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.” (at 2)

“Thus, Plaintiff had adequate warning that dismissal could result from his noncompliance.” (at 4)

FACTUAL BACKGROUND

Plaintiff Cornell E. Davis, a state prisoner proceeding pro se, brought a civil rights action under 42 U.S.C. § 1983. The court ordered him to submit a completed in forma pauperis application or pay the \$405 filing fee and warned that failure to comply would result in dismissal without prejudice. Plaintiff missed the deadline and did not otherwise communicate with the court.

PROCEDURAL HISTORY

Plaintiff filed a civil rights action under 42 U.S.C. § 1983. The court ordered him to submit an application to proceed in forma pauperis or pay the \$405 filing fee, expressly warning that noncompliance could result in dismissal. Plaintiff neither complied nor communicated with the court by the deadline. The magistrate judge recommended dismissal without prejudice and gave Plaintiff fourteen days to object.

DISPOSITION

other

CASES CITED

- Thompson v. Housing Authority, 782 F.2d 829, 831 (9th Cir. 1986)
- Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61, 1262 (9th Cir. 1992)
- Malone v. U.S. Postal Service, 833 F.2d 128, 130-33, 132-33 (9th Cir. 1987)
- Henderson v. Duncan, 779 F.2d 1421, 1423-24 (9th Cir. 1986)
- Carey v. King, 856 F.2d 1439, 1440 (9th Cir. 1988)
- Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976)
- Pagtalunan v. Galaza, 291 F.3d 639, 643 (9th Cir. 2002)
- In re Phenylpropanolamine (PPA) Products Liability Litigation, 460 F.3d 1217, 1228 (9th Cir. 2006)
- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)

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