

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

McElroy v. George

McElroy · No. 1:24-cv-00982 · Decided June 12, 2025

SUMMARY

The United States District Court for the Eastern District of California dismissed Eibon McElroy’s civil-rights action without prejudice for failure to pay the filing fee, prosecute the case, and comply with court orders. The court determined that dismissal was warranted under its inherent docket-management authority after considering the relevant Ninth Circuit factors and prior warning of dismissal. The Clerk of Court was directed to close the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 12, 2025
DOCKET	1:24-cv-00982
DISPOSITION	dismissed
PROCEDURAL POSTURE	The court dismissed the prisoner civil-rights action without prejudice for failure to prosecute and failure to obey court orders after the plaintiff failed to pay the required filing fee.
STANDARD OF REVIEW	The court applied the Ninth Circuit's five-factor test for terminating sanctions based on failure to prosecute or obey court orders: 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 sanctions.
PRECEDENTIAL VALUE	unpublished district court order; limited persuasive value
PARTIES	Eibon McElroy v. George, et al.

TOPICS

- sanctions
- civil procedure
- prisoners rights
- civil rights

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for Plaintiff's failure to prosecute and failure to comply with the court's orders.
2. Whether the court adequately considered the relevant factors and less drastic sanctions before imposing dismissal.

HOLDINGS

1. A district court may dismiss an action when a plaintiff fails to prosecute, fails to obey a court order, or fails to comply with applicable local rules, and dismissal without prejudice was warranted because Plaintiff failed to pay the filing fee despite repeated orders.
2. A single clear warning that failure to comply with a court order may result in dismissal satisfies the requirement that the court consider less drastic sanctions before dismissing under Rule 41.

KEY QUOTATIONS

“District courts have inherent power to control their dockets, and in exercising that power, a court may impose sanctions including dismissal of an action.” (at 1)

“The Court ‘abuses its discretion if it imposes a sanction of dismissal without first considering the impact of the sanction and the adequacy of less drastic sanctions.’” (at 2)

“Plaintiff can hardly be surprised” by a sanction of dismissal “in response to willful violation of a pretrial order.” (at 2)

FACTUAL BACKGROUND

Plaintiff brought claims alleging violations of his civil right to adequate medical care. He did not pay the filing fee and was denied in forma pauperis status because he had at least three qualifying strikes under 28 U.S.C. § 1915(g). Despite repeated orders and an express warning that failure to pay would result in dismissal, Plaintiff never paid the \$405 filing fee.

PROCEDURAL HISTORY

Plaintiff initiated the action without paying the filing fee and later moved to proceed in forma pauperis. The magistrate judge found that Plaintiff had at least three strikes under 28 U.S.C. § 1915(g), recommended denial of in forma pauperis status, and directed payment of the \$405 filing fee. The district court adopted those findings and recommendations, later denied Plaintiff's request for additional time to object, again ordered payment within fourteen days, and warned that nonpayment would result in dismissal. Plaintiff did not pay, so the court dismissed the action without prejudice and directed the clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Thompson v. Housing Authority of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986)
- Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 2995)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-62 (9th Cir. 1992)
- Henderson v. Duncan, 779 F.2d 1421, 1423-24 (9th Cir. 1986)
- Yourish v. California Amplifier, 191 F.3d 983, 990 (9th Cir. 1999)
- Morris v. Morgan Stanley & Co., 942 F.2d 648, 652 (9th Cir. 1991)
- Malone v. U.S. Postal Service, 833 F.2d 128, 131, 133 (9th Cir. 1987)
- Rubin v. Belo Broadcasting Corp., 769 F.2d 611, 618 (9th Cir. 1985)
- Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976)
- In re Phenylpropanolamine (PPA) Products Liability Litigation, 460 F.3d 1217, 1228 (9th Cir. 2006)
- United States v. National Medical Enterprises, Inc., 792 F.2d 906, 912 (9th Cir. 1986)
- Titus v. Mercedes Benz of North America, 695 F.2d 746, 749 n.6 (3d Cir. 1982)

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