

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Hanley v. Wilkens

Hanley · No. 1:22-cv-0404 JLT SAB · Decided March 26, 2025

OPINION

Hanley v. Wilkens

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 ROLLAND HANLEY,) Case No.: 1:22-cv-0404 JLT SAB) 12 Plaintiff,) ORDER
ADOPTING IN FULL THE FINDINGS

) AND RECOMMENDATIONS, GRANTING

13 v.) DEFENDANT’S MOTION TO DISMISS FOR

) LACK OF PROSECUTION, DISMISSING THE

14 WILKENS,) ACTION WITH PREJUDICE, AND DIRECTING

) THE CLERK OF COURT TO CLOSE THIS CASE

15 Defendants.)) (Docs. 26, 29) 16 17 Rolland Hanley initiated this action while a detainee at the
Merced County Jail, seeking to hold 18 Officer Wilkens liable for excessive force in violation of
his civil rights pursuant to 42 U.S.C. § 1983. 19 (See generally Doc. 8.) Defendant moved to
dismiss the action for lack of prosecution pursuant to Rule 20 41 of the Federal Rules of Civil
Procedure and Local Rule 183(b). (Doc. 26.) Plaintiff did not oppose, 21 or otherwise respond to,
the motion. 22 The magistrate judge observed that Defendant reported “it has been more than a
year since 23 Plaintiff’s mail began being returned as undeliverable and not once during this time
has Plaintiff filed 24 or served a notice of change of address.” (Doc. 29 at 4.) In addition,
Defendant indicated that “on

25 February 2, 2024, Plaintiff was served with written requests for discovery that were returned as
26 unopened and undeliverable.” (Id.) The magistrate judge also observed that the Court’s mail
was 27 returned as undeliverable on June 5, 2023, as well as July 5, 2023. (Id.) The magistrate
judge noted 28 more than 63 days passed since the mail was first returned, but Plaintiff did not
notify the Court of his 1 current address. (Id.) Thus, the magistrate judge found Plaintiff “fail[ed]
to comply with the Local 2 Rule” and recommended the Court dismiss the action for failure to
prosecute. (Id. at 5.) 3 In finding dismissal terminating sanctions are appropriate, the magistrate
judge considered the 4 factors identified by the Ninth Circuit in Carey v. King, 856 F.2d 1439,
1440 (9th Cir. 1988). (Doc. 29 5 at 3, 5-8.) The magistrate judge determined “the public’s interest

in expeditious resolution of the 6 litigation and the Court's need to manage its docket weigh in favor of dismissal." (Id. at 6, citing *In re 7 Phenylpropanolamine (PPA) Products Liability Litig.* 460 F.3d 1217, 1226 (9th Cir. 2006), *Pagtalunan 8 v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002).) The magistrate judge also found a "presumption of 9 prejudice to the defendant" that Plaintiff did not rebut given his lack of response to the motion. (Id., 10 citing *In re Eisen*, 31 F.3d 1447, 1452-53 (9th Cir. 1994).) The magistrate judge determined that "the 11 prejudice to Defendant based on Plaintiff's failure to participate in this action threatens to interfere with 12 the rightful decision in the case and therefore weighs in favor of dismissal." (Id. at 7.) Further, the 13 magistrate judge found "Plaintiff had adequate warning that dismissal would result from his 14 noncompliance," which satisfied the requirement that the Court consider lesser sanctions. (Id. at 8.) 15 These factors outweighed the public policy in favor of deciding cases on the merits. (Id. at 7.) Thus, 16 the magistrate judge recommended the Court grant the motion to dismiss. (Id. at 9.) 17 Plaintiff filed an opposition to the Findings and Recommendations, asserting that "he was being 18 treated for mental health related issues at different mental health facilities, suffering from severe mental 19 illnesses" during the time mail was returned as undeliverable. (Doc. 30 at 1.) Plaintiff contends that 20 "he could not properly keep in compliance with the Court proceedings" due to his mental illness. (Id. 21 at 2.) However, Plaintiff asserts that he "is now receiving the proper mental health medication and his 22 mental health illness has stabilized." (Id.) He also contends he "has ... on going medical treatment" to 23 his hand. (Id.) He indicates that once released from custody, he would participate in discovery, 24 including filing interrogatories and admissions. (Id.) Plaintiff requests the Court "excuse him for not 25 keeping in compliance with the court proceedings." (Id.) 26 Defendant filed a response to the objections, asserting Plaintiff's statements were "vague and 27 conclusory, at best." (Doc. 31 at 1.) Defendant notes "there are no specific assertions as to where he 28 was, and when he began treatment, assuming such is true." (Id.) Further, Defendant observes that 1 despite Plaintiff's contention that "he could not comply with the local rules on keeping the Court 2 apprised of his whereabouts, due to his mental illness, ... on at least one least one occasion, Plaintiff 3 filed a Notice of Change of Address – to the Department of State Hospitals in Napa, California." (Id. at 4 1-2, emphasis omitted.) Defendant contends that Plaintiff "demonstrated his ability to comply with the 5 local rules and has not sufficiently explained how this time was any different." (Id. at 2.) Defendant 6 argued "Plaintiff does not get to pick and choose when he will decide to litigate this case when it is 7 most convenient for him," as such "would be prejudicial to Defendant's ability to defend against this 8 case." (Id.) Defendant maintains Plaintiff does not show good cause for his failures. (Id.) 9 Plaintiff filed additional objections—without leave of Court—asserting that "he was in Napa 10 State Hospital for quite some time." (Doc. 32 at 1.) He also reports that "once he was released from 11 custody," he was taken to the hospital for mental health-related issues. (Id.) Plaintiff maintains that he 12 is now "stabilized on his medication" and the motion to dismiss should be denied. (Id.) 13 On February 27, 2025, the Court ordered Plaintiff to "file medical evidence in support of his 14 objections—

including any diagnoses, documentation identifying the specific dates when he received 15 treatment, and the facilities where he received this care—within 21 days of the date of service.” (Doc. 16 34 at 1, emphasis omitted.) The Court informed the parties the submitted medical evidence would be 17 considered “in conjunction with the objections.” (Id.) In addition, the Court informed Plaintiff that the 18 “[f]ailure to comply with this order will result in the Court finding Plaintiff is unable to do so and 19 adopting the recommendation for dismissal.” (Id. at 2, emphasis omitted.) 20 In response, Plaintiff submitted three documents: (1) an inmate grievance form dated September 21 24, 2024, which related related to medical treatment for his hand and need for a wrap due to “severe 22 carpal tunnel”; (2) a medical order dated October 4, 2024, indicating an order for a large ace wrist 23 support sleeve; (3) the inmate grievance response, dated October 7, 2024, indicating Plaintiff was 24 “provided with a wrist support sleeve from medical.” (Doc. 35 at 3-4.) 25 Significantly, the medical records provided by Plaintiff do not meaningfully comply with the 26 Court’s order or support his objections. Plaintiff does not identify any mental health diagnoses, when 27 he received mental health treatment, or where. The Court declines to speculate, as Plaintiff would have 28 it, that he suffered from an impairment that rendered him unable to prosecute the matter, particularly in 1 || light of the evidence submitted that documents only a diagnosis for carpal tunnel and its treatment. 2 According to 28 U.S.C. § 636(b)(1), this Court performed a de novo review of this case. Havi 3 || carefully reviewed the entire matter—including Plaintiffs objections and the evidence submitted to 4 || support his assertions—the Court concludes the Findings and Recommendations are supported by th 5 record and proper analysis. Plaintiff does not dispute that he failed to prosecute this action. Plaintiff 6 || also does not dispute the findings that the public interest and Court’s need to manage its docket □□□□ 7 favor of dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999); *Gonzales v. 8 || Mills*, 2011 WL 976713, at *5 (E.D. Cal. Mar. 16, 2011) (finding the Court’s need to manage its doch 9 || favored terminating sanctions because this Court “has a significantly impacted docket... [that] is □□□□ 10 || congested” and cases that are stalled by the litigant conduct “aggravate the situation”). Further, 11 || Plaintiff does not rebut the presumption of prejudice to Defendant as a result of his dilatory actions ai 12 || failure to engage in discovery. See *Hernandez v. City of El Monte*, 138 F.3d 393, 400-401 (9th Cir. 13 || 1998). Finally, as the magistrate judge observed, the Court warned Plaintiff that failure to comply wi 14 || its order—including the obligation to keep the Court informed of his current mailing address—would 15 || result in dismissal, and this warning satisfies the requirement to consider lesser sanctions. See *Malon 16 || v. U.S. Postal Service*, 833 F.2d 128, 133 (9th Cir. 1987). Dismissal is appropriate because at least 17 || three of the factors identified by the Ninth Circuit strongly support terminating sanctions. *Hernandez 18 ||* 138 F.3d at 339. Thus, the Court ORDERS: 19 1. The Findings and Recommendations dated September 3, 2024 (Doc. 29) are 20 ADOPTED in full. 21 2. Defendant’s motion to dismiss for lack of prosecution (Doc. 26) is GRANTED. 22 3. The action is DISMISSED with prejudice. 23 4. The Clerk of Court is directed to close this case. 24 25 IT IS SO ORDERED. 26 || Dated: _ March 26,

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27 TED STATES DISTRICT JUDGE
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