

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Justin A. Kurpiel v. Dr. Avram and Doe Director of Nursing

Kurpiel · No. 2:24-cv-00203-RFB-BNW · Decided December 29, 2025

OPINION

2 UNITED STATES DISTRICT COURT 3 DISTRICT OF NEVADA 4 *** 5 JUSTIN A. KURPIEL, Case No. 2:24-cv-00203-RFB-BNW 6 Plaintiff DISMISSAL ORDER 7 v. 8 DR. AVRAM AND DOE DIRECTOR OF NURSING, 9 Defendants. 10 11 Plaintiff Justin Kurpiel brings this civil-rights action under 42 U.S.C. § 1983 to redress 12 constitutional violations that he claims he suffered while incarcerated at High Desert State Prison.

13 ECF No. 11 at 1. On May 14, 2025, this Court ordered Kurpiel to file an amended complaint by 14 June 12, 2025. ECF No. 21 at 2. The Court warned Kurpiel that the action could be dismissed if 15 he failed to file an amended complaint by that deadline. Id. That deadline expired, and Kurpiel did 16 not file an amended complaint, move for an extension, or otherwise respond.

In addition, Kurpiel 17 is no longer incarcerated and has failed to update his mailing address, so his mail is being returned 18 as undeliverable. 19 I. DISCUSSION 20 District courts have the inherent power to control their dockets and “[i]n the exercise of 21 that power, they may impose sanctions including, where appropriate... dismissal” of a case. 22 *Thompson v. Hous.*

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

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

Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*, 4 833 F.2d at 130). 5 The first two factors, the public’s interest in expeditiously resolving this litigation and the 6 Court’s interest in managing its docket, weigh in favor of dismissing Kurpiel’s claims.

The third 7 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption of 8 injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court 9 or prosecuting an action. See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

The fourth 10 factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by 11 the factors favoring dismissal. 12 The fifth factor requires the Court to consider whether less drastic alternatives can be used 13 to correct the party’s failure that brought about the Court’s need to consider dismissal. See *Yourish* 14 v. *Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir.

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

Courts “need not exhaust every sanction short of dismissal before finally 21 dismissing a case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 22 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and 23 unless Kurpiel files an amended complaint, the only alternative is to enter a second order setting 24 another deadline.

But the reality of repeating an ignored order is that it often only delays the 25 inevitable and squanders the Court’s finite resources. The circumstances here do not indicate that 26 this case will be an exception: there is no hint that Kurpiel needs additional time or evidence that 27 he did not receive the Court’s screening order. Setting another deadline is not a meaningful 28 alternative given these circumstances.

So, the fifth factor favors dismissal. 1) UL. CONCLUSION 2 Having thoroughly considered these factors, the Court finds that they weigh in favor of 3 || dismissal. 4 IT IS THEREFORE ORDERED that this action is DISMISSED without prejudice 5 || based on Kurpiel’s failure to file an amended complaint in compliance with this Court’s May 14, 6 || 2025, order and for failure to state a claim.

7 The Clerk of Court is directed to enter judgment accordingly and close this case. No other 8 || documents may be filed in this now-closed case. If Kurpiel wishes to pursue his claims, he must 9 || file a complaint in a new case. 10 11 DATED: December 29, 2025. 13 RICHARD F. BOULWARE, II 14 UNITED STATES DISTRICT JUDGE 15 16 17 18 19 20 21 22 23 24 25 26 27 28