

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Jacqueline Coleman v. County of Sacramento, et al.

No. 2:23-cv-2677-DC-CKD (PS), United States District Court for the Eastern District of California (May 20, 2025)

SUMMARY

The United States Magistrate Judge recommends dismissing Jacqueline Coleman’s pro se civil action for failure to prosecute after Coleman failed to file an amended complaint or otherwise respond within the time ordered by the court. The recommendation relies on Federal Rule of Civil Procedure 41(b) and the factors governing dismissal for failure to prosecute, and advises that objections may be filed within fourteen days.

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	May 20, 2025
DOCKET	2:23-cv-2677-DC-CKD (PS)
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal of a pro se civil action for failure to prosecute after plaintiff failed to file a further amended complaint.
STANDARD OF REVIEW	Dismissal for failure to prosecute is evaluated under the five-factor test considering 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 alternatives.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- civil procedure
- pleadings

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed for failure to prosecute after plaintiff failed to comply with the order granting leave to amend.
2. Whether the five *Ferdik* factors supported dismissal under Federal Rule of Civil Procedure 41(b).

HOLDINGS

1. The court recommended dismissal of the action for failure to prosecute because plaintiff failed to file an amended complaint or otherwise participate after being given leave and a specific warning.

KEY QUOTATIONS

“(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 alternatives.” (at 2-3)

FACTUAL BACKGROUND

Plaintiff proceeded pro se and previously filed an amended complaint that was found not to state a claim and was dismissed with leave to amend. Although plaintiff was given thirty days to file another amended complaint and was warned that failure to do so could result in dismissal, the deadline expired without a further filing, extension request, or communication with the court.

PROCEDURAL HISTORY

Plaintiff filed a pro se civil complaint, and the matter was referred to Magistrate Judge Carolyn K. Delaney under 28 U.S.C. § 636(b) and Local Rule 302(c)(21). After plaintiff’s amended complaint was dismissed with leave to amend and plaintiff failed to file another amended complaint, request an extension, or otherwise communicate with the court, the magistrate judge recommended dismissal under Federal Rule of Civil Procedure 41(b) and closure of the case. The recommendation was submitted to the assigned district judge for review, subject to fourteen-day objections.

DISPOSITION

other

CASES CITED

- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(PS) Coleman v. County of Sacramento

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 JACQUELINE COLEMAN, No. 2:23-cv-2677-DC-CKD (PS)

12 Plaintiff,

13 v. FINDINGS AND RECOMMENDATIONS

14 COUNTY OF SACRAMENTO, et al., 15 Defendants. 16 17 18 Plaintiff filed a pro se civil
complaint and the matter was referred to the undersigned by 19 Local Rule 302(c)(21) pursuant to
28 U.S.C. § 636(b). On April 2, 2025, plaintiff's amended 20 complaint was found not to state a
claim and was dismissed with leave to amend. (See ECF No. 21 22.) The undersigned ordered that
plaintiff file any amended complaint within 30 days of the date 22 of that order. (Id. at 10.)
Plaintiff was specifically cautioned that failure to file an amended 23 complaint or otherwise
respond to the order would result in a recommendation that this action be 24 dismissed. The time
granted for plaintiff to file an amended complaint has expired. Plaintiff has 25 not filed an
amended complaint, sought an extension of time to do so, or otherwise communicated 26 with the
court. 27 In recommending this action be dismissed for failure to prosecute, the court has 28
considered "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to 1
|| manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring 2 |
disposition of cases on their merits; and (5) the availability of less drastic alternatives." *Ferdik v. 3*
|| *Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (citation omitted). Because plaintiff has not 4 ||
stated a claim for relief and this case cannot move forward without plaintiff's participation, these 5
|| factors weigh in favor of dismissal. 6 Based on the foregoing, IT IS HEREBY
RECOMMENDED as follows: 7 1. This action be dismissed for failure to prosecute. See Fed. R.
Civ. P. 41(b); and 8 2. The Clerk of the Court be directed to close this case. 9 These findings and
recommendations are submitted to the United States District Judge 10 || assigned to the case,
pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 11 | after being served
with these findings and recommendations, plaintiff may file written objections 12 || with the court
and serve a copy on all parties. Such a document should be captioned "Objections 13 || to
Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file 14 ||
objections within the specified time may waive the right to appeal the District Court's order. 15 ||
Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991). 16 | Dated: May 20, 2025 / ae □□ / a Ly a

"7 CAROLYNK.DELANEY

18 UNITED STATES MAGISTRATE JUDGE

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