

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Virgil Douglas Randall v. Unknown

Randall v. Unknown · No. 2:25-cv-0915 SCR P · Decided June 25, 2025

SUMMARY

The document contains findings and recommendations by a United States magistrate judge in the Eastern District of California. The court recommends dismissal without prejudice because the plaintiff failed to pay the filing fee, file the required complaint, and comply with the court's orders. The document also directs assignment of a district judge and provides the procedure and deadline for filing objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sean C. Riordan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 25, 2025
DOCKET	2:25-cv-0915 SCR P
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal without prejudice of a prisoner civil-rights action for failure to pay the filing fee and comply with court orders.
STANDARD OF REVIEW	The court applied the five-factor test governing dismissal for failure to prosecute or comply with court orders: the public interest in expeditious resolution, docket management, prejudice to defendants, the policy favoring disposition on the merits, and the availability of less drastic alternatives.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- civil procedure
- pleadings
- prisoners rights
- section 1983

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice because plaintiff failed to pay the filing fee and comply with the court's order.
2. Whether dismissal was appropriate under the applicable five-factor test after plaintiff failed to respond despite multiple opportunities and a warning that noncompliance could result in dismissal.

HOLDINGS

1. Dismissal without prejudice was recommended because plaintiff failed to pay the filing fee, failed to file the required complaint or seek in forma pauperis status, and failed to comply with the order to show cause.

KEY QUOTATIONS

“In recommending this action be dismissed, the court has considered “(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 1)

“IT IS RECOMMENDED that this action be dismissed without prejudice for failure to pay the filing fee and failure to comply with the court’s order.” (at 2)

FACTUAL BACKGROUND

Virgil Douglas Randall, a state prisoner, filed a letter alleging assaults and dangerous living conditions rather than a complaint. He did not comply with an order to file a complaint and either pay the filing fee or seek leave to proceed in forma pauperis, and he also failed to respond to a subsequent order to show cause.

PROCEDURAL HISTORY

Plaintiff initially filed a letter concerning assaults and dangerous living conditions. The magistrate judge ordered him to file a complaint and either pay the filing fee or apply to proceed in forma pauperis. After plaintiff failed to respond, the court issued an order to show cause, which also went unanswered, and recommended dismissal without prejudice.

DISPOSITION

other

CASES CITED

- Olivares v. Marshall, 59 F.3d 109, 112 (9th Cir. 1995)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(PC) Randall v. Unknown

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 VIRGIL DOUGLAS RANDALL, No. 2:25-cv-0915 SCR P

12 Plaintiff,

13 v. FINDINGS & RECOMMENDATIONS

14 UNKNOWN,

15 Defendant. 16

17 Plaintiff, a state prisoner at California Substance Abuse Treatment Facility, filed a letter 18
regarding assaults and dangerous living conditions. (ECF No. 1.) On April 2, 2025, the 19
undersigned granted plaintiff 30 days to file a complaint as required by Rule 3 of the Federal 20
Rules of Civil Procedure and either pay the required filing fee or file an application requesting 21
leave to proceed in forma pauperis. (ECF No. 3.) Plaintiff did not respond. On May 20, 2025, 22
the undersigned issued an order to show cause within 21 days why the action should not be 23
dismissed for failure to pay the filing fee and comply with the court's order. (ECF No. 4.) 24 More
than 21 days have passed, and plaintiff has not responded to the order to show 25 cause.
Accordingly, the undersigned recommends that the action be dismissed for failure to pay 26 the
filing fee and failure to comply with the court's order. See *Olivares v. Marshall*, 59 F.3d 109, 27
112 (9th Cir. 1995) (affirming dismissal for failure to pay partial filing fee under IFP statute); 28
Local Rule 110 (failure to comply with court orders).] In recommending this action be dismissed,
the court has considered "(1) the public's 2 || interest in expeditious resolution of litigation; (2) the
court's need to manage its docket; (3) the 3 || risk of prejudice to the defendants; (4) the public
policy favoring disposition of cases on their 4 | merits; and (5) the availability of less drastic
alternatives." *Ferdik v. Bonzelet*, 963 F.2d 1258, 5 || 1260-61 (9th Cir. 1992) (citation omitted).
The court finds dismissal appropriate here where 6 || plaintiff has received multiple opportunities
to file the required case initiating documents and has 7 || been warned that his failure to do so will
result in dismissal. 8 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall
assign a district 9 || judge to this case; and 10 IT IS RECOMMENDED that this action be
dismissed without prejudice for failure to pay 11 | the filing fee and failure to comply with the
court's order. 12 These findings and recommendations are submitted to the United States District
Judge 13 | assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within
twenty-one days 14 | after being served with these findings and recommendations, plaintiff may
file written objections 15 | with the court and serve a copy on all parties. Such a document should
be captioned "Objections 16 | to Magistrate Judge's Findings and Recommendations." Plaintiff is

advised that failure to file 17 || objections within the specified time may waive the right to appeal the District Court's order. 18 | Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991). 19 | DATED: June 24, 2025 Kink 21

SEAN C. RIORDAN

UNITED STATES MAGISTRATE JUDGE

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