

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Palmer v. Zanoni

Palmer · No. 1:23-cv-01004 GSA (PC) · Decided July 24, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends dismissing Marlon Palmer’s 42 U.S.C. § 1983 action without prejudice for failure to obey court orders and failure to prosecute. The recommendation applies Federal Rule of Civil Procedure 41(b), relevant Eastern District local rules, and the Malone dismissal factors. The court also orders random assignment of a district judge and allows the plaintiff fourteen days to file objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Gary S. Austin
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 24, 2025
DOCKET	1:23-cv-01004 GSA (PC)
DISPOSITION	other
PROCEDURAL POSTURE	A pro se prisoner brought a civil-rights action under 42 U.S.C. § 1983. After the plaintiff failed to comply with orders requiring him to update his address and show cause why the action should not be dismissed, the magistrate judge issued findings and recommendations recommending dismissal without prejudice for failure to prosecute and failure to obey court orders.
STANDARD OF REVIEW	The court applied the Ninth Circuit's five-factor test for dismissal for failure to comply with a court order: 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 sanctions.
PRECEDENTIAL VALUE	Nonprecedential or limited; magistrate judge's findings and recommendations in a prisoner civil-rights action.
PARTIES	Marlon Palmer v. John Zanoni

TOPICS

sanctions

civil procedure

section 1983

civil rights

PRACTICE AREAS

civil procedure

prisoner civil rights

civil rights

federal courts

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) and the applicable local rules because plaintiff failed to obey court orders.
2. Whether dismissal was warranted for failure to prosecute after plaintiff failed to keep the court apprised of his current address and failed to respond to the order to show cause.
3. Whether consideration of the Malone factors supported dismissal and whether a lesser sanction was available.

HOLDINGS

1. A court may recommend dismissal without prejudice under Federal Rule of Civil Procedure 41(b) and the applicable local rules when a plaintiff fails to maintain a current address, fails to comply with an order requiring a current-address notice, and fails to respond to an order to show cause.
2. The Malone factors supported dismissal because plaintiff's noncompliance delayed resolution, burdened the court's docket, caused no meaningful prejudice to unserved defendants, and left no less drastic effective sanction.

KEY QUOTATIONS

"A district court must weigh five factors in determining whether to dismiss a case for failure to comply with a court order: "(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 sanctions." (at 2)

"It is a plaintiff's responsibility to keep a court apprised of his current address at all times." (at 3)

"Finally, given that Plaintiff has had sufficient time to respond to the Court's order to show cause, there is no less drastic option than dismissal." (at 5)

FACTUAL BACKGROUND

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, filed a § 1983 action in July 2023. In March 2025, the court ordered him to file a current-address notice after a significant period had elapsed, but the order was returned as undeliverable. Plaintiff then failed to update his address within the applicable period and did not respond to a June 2025 order to show cause, which was sent to his address at Salinas Valley State Prison and was not returned as undeliverable. Defendants had not yet been served or incurred litigation effort.

PROCEDURAL HISTORY

Plaintiff filed the complaint and an application to proceed in forma pauperis on July 5, 2023. The court granted in forma pauperis status, later ordered plaintiff to file a current-address notice, and then issued an order to show cause after plaintiff failed to comply. Plaintiff did not respond to either order, and the magistrate judge recommended dismissal without prejudice under Federal Rule of Civil Procedure 41(b) and Local Rules 110, 182(f), and 183(b), subject to objections and review by an assigned district judge.

DISPOSITION

other

CASES CITED

- *Malone v. United States Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987)
- *Thompson v. Housing Authority of City of Los Angeles*, 782 F.2d 829 (9th Cir. 1986) (per curiam)
- *Whitaker v. Superior Court of San Francisco*, 514 U.S. 208, 210 (1994)
- *Rosenthal v. Walker*, 111 U.S. 185, 193 (1884)
- *Busquets-Ivars v. Ashcroft*, 333 F.3d 1008, 1010 (9th Cir. 2003)
- *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014)
- *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991)

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