

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Chavarry v. San Diego County Jail Medical Staff

No. 3:24-cv-01411-RSH-VET (S.D. Cal. Feb. 25, 2025) · No. 3:24-cv-01411-RSH-VET · Decided February 25, 2025

SUMMARY

The United States District Court for the Southern District of California dismissed Maurice Terae Chavarry, Jr.'s pro se civil rights action under 42 U.S.C. § 1983 without prejudice. The court dismissed the action under Federal Rule of Civil Procedure 41(b) after the plaintiff failed to file an amended complaint, update his address, or otherwise communicate with the court, and directed the Clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Robert S. Huie
JURISDICTION	United States District Court for the Southern District of California
DECIDED	February 25, 2025
DOCKET	3:24-cv-01411-RSH-VET
DISPOSITION	dismissed
PROCEDURAL POSTURE	A pro se detainee brought a 42 U.S.C. § 1983 civil-rights action. After dismissing the original complaint without prejudice and granting leave to amend, the court dismissed the action without prejudice under Federal Rule of Civil Procedure 41(b) when plaintiff failed to amend, failed to update his address, and failed to communicate with the court.
STANDARD OF REVIEW	The court exercised discretion to dismiss sua sponte for failure to prosecute and failure to comply with a court order.
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential

TOPICS

- civil procedure
- pleadings
- sanctions
- civil rights
- prisoners rights

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed under Federal Rule of Civil Procedure 41(b) because plaintiff failed to prosecute the action and failed to comply with the court's order directing him to file an amended complaint.

HOLDINGS

1. A court may dismiss an action without prejudice under Federal Rule of Civil Procedure 41(b) when a plaintiff fails to respond to a court-ordered deadline, fails to prosecute, and fails to comply with a court order.

KEY QUOTATIONS

“The failure of the plaintiff eventually to respond to the court’s ulttmatum—either by amending the complaint or by indicating to the court that [he] will not do so—is properly met with the sanction of a Rule 41(b) dismissal.” (2)

FACTUAL BACKGROUND

Plaintiff, a detainee proceeding pro se, filed a civil-rights action under 42 U.S.C. § 1983. After the court dismissed his initial complaint with leave to amend and established a deadline for curing pleading deficiencies, mail sent to his address of record was returned as undeliverable. Plaintiff did not file an amended complaint, provide an updated address, or otherwise communicate with the court.

PROCEDURAL HISTORY

Plaintiff filed the action on August 7, 2024, and was granted leave to proceed in forma pauperis. On December 30, 2024, the court dismissed the complaint without prejudice and allowed plaintiff until February 14, 2025, to file an amended complaint curing identified pleading deficiencies. Mail to plaintiff was returned as undeliverable, and plaintiff neither amended the complaint nor provided an updated address or otherwise contacted the court. The court then dismissed the action without prejudice and directed the clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Edwards v. Marin Park, 356 F.3d 1058, 1065 (9th Cir. 2004)
- Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 1986)

OPINION

Chavarry v. San Diego County Jail Medical Staff

PER CURIAM.

1 2 3 4 5 6

7 UNITED STATES DISTRICT COURT

8 SOUTHERN DISTRICT OF CALIFORNIA

9 10 MAURICE TERAЕ CHAVARRY, Jr., Case No.: 3:24-cv-01411-RSH-VET Booking
#24728371, 11

ORDER DISMISSING ACTION

Plaintiff, 12 vs. 13 14

SAN DIEGO COUNTY JAIL MEDICAL

15

STAFF; SAN DIEGO COUNTY

16 SHERIFF'S DEPARTMENT,

17 Defendants. 18

19 On August 7, 2024, Maurice Terae Chavarry, Jr. ("Plaintiff"), a detainee proceeding 20 pro se,
filed a civil rights action pursuant to 42 U.S.C. § 1983 [ECF No. 1]. On December 21 30, 2024,
the Court entered an Order granting Plaintiff's IFP application but dismissed the 22 Complaint
without prejudice and with leave to amend. ECF No. 3. The Court gave Plaintiff 23 until February
14, 2025 to file an amended complaint that cured the pleading deficiencies 24 identified in the
dismissal order and also cautioned Plaintiff that a failure to respond by 25 filing an amended
complaint would result in the Court entering a final order of dismissal 26 of this action. See id. at
11. 27 28 1 Thereafter, mail sent by the Clerk to Plaintiff's address of record was returned as 2 ||
undeliverable, and Plaintiff has not amended his complaint, provided an updated address, 3 ||or
otherwise communicated with the Court. "The failure of the plaintiff eventually to 4 respond to the
court's ulttmatum—either by amending the complaint or by indicating to the 5 || court that [he]
will not do so—is properly met with the sanction of a Rule 41(b) dismissal." 6 || Edwards v. Marin
Park, 356 F.3d 1058, 1065 (9th Cir. 2004); Henderson v. Duncan, 779 7 || F.2d 1421, 1423 (9th Cir.
1986) (the Court has discretion to sua sponte dismiss a case for 8 ||lack of prosecution or failure to
comply with a court order). Therefore, the Court 9 || DISMISSES this civil action without
prejudice. The Court DIRECTS the Clerk to close 10 || the case.

1] IT IS SO ORDERED. ' 11

12 || Dated: February 25, 2025 fekut ¢ Howe 13 Hon.RobertS.Huie —S 14 United States
District Judge 15 16 17 18 19 20 21 22 23 24 25 26 27 28 2 oe