

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Steven Oscar Austin v. Unknown

Austin v. Unknown · No. 1:25-cv-00903-EPG (PC) · Decided September 23, 2025

SUMMARY

The document is a magistrate judge’s findings and recommendations in a prisoner civil rights action under 42 U.S.C. § 1983. It recommends dismissal without prejudice because the plaintiff failed to pay the filing fee, submit an application to proceed in forma pauperis, prosecute the action, or comply with a court order.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	United States Magistrate Judge
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 23, 2025
DOCKET	1:25-cv-00903-EPG (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal without prejudice of a prisoner's § 1983 action for failure to pay the filing fee or submit an application to proceed in forma pauperis, failure to prosecute, and failure to comply with a court order.
STANDARD OF REVIEW	In deciding whether to dismiss for failure to prosecute or failure to comply with a court order, the court weighs the public interest in expeditious resolution, the court's need to manage its docket, the risk of prejudice, the availability of less drastic alternatives, and the public policy favoring disposition on the merits.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Steven Oscar Austin v. Unknown

TOPICS

- prisoners rights
- section 1983
- sanctions
- civil procedure

PRACTICE AREAS

Civil procedure

Prisoner civil rights

Federal courts

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for failure to pay the filing fee or submit an application to proceed in forma pauperis.
2. Whether dismissal without prejudice is warranted for failure to prosecute and failure to comply with the court's order.

HOLDINGS

1. The magistrate judge recommended that the action be dismissed without prejudice because Plaintiff failed to pay the filing fee, submit an in forma pauperis application, prosecute the action, or comply with the court's order.

KEY QUOTATIONS

“*The public’s interest in expeditious resolution of litigation always favors dismissal.*” (at 2)

“*After weighing the factors, the Court finds that dismissal without prejudice is appropriate.*” (at 3)

FACTUAL BACKGROUND

Steven Oscar Austin, a state prisoner proceeding pro se, filed a civil-rights action under 42 U.S.C. § 1983. He did not pay the filing fee or submit an application to proceed in forma pauperis. After the court ordered him to do one or the other within forty-five days and warned that failure to comply would result in dismissal, he did not respond.

PROCEDURAL HISTORY

Plaintiff filed this § 1983 action on July 21, 2025, without paying the filing fee or submitting an application to proceed in forma pauperis. The court ordered him to submit a completed and signed application or pay the \$405 filing fee within forty-five days and warned that noncompliance would result in dismissal. Plaintiff did neither and filed nothing further, leading the magistrate judge to recommend dismissal without prejudice and closure of the case, subject to review by an assigned district judge.

DISPOSITION

other

CASES CITED

- Pagtalunan v. Galaza, 291 F.3d 639, 642-43 (9th Cir. 2002)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- Yourish v. California Amplifier, 191 F.3d 983, 990-91 (9th Cir. 1999)

- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 STEVEN OSCAR AUSTIN, Case No. 1:25-cv-00903-EPG (PC) 12
Plaintiff, ORDER TO ASSIGN A DISTRICT JUDGE 13 v. FINDINGS AND
RECOMMENDATIONS, 14 RECOMMENDING THAT THIS ACTION BE UNKNOWN,
DISMISSED, FOR FAILURE TO PAY THE 15 FILING FEE OR SUBMIT AN APPLICATION
Defendant. TO PROCEED IN FORMA PAUPERIS, 16 FAILURE TO PROSECUTE, AND
FAILURE TO COMPLY WITH A COURT ORDER 17 18 OBJECTIONS, IF ANY, DUE
WITHIN THIRTY (30) DAYS 19 20 21 Plaintiff Steven Oscar Austin is a state prisoner
proceeding pro se in this civil rights 22 lawsuit filed pursuant to 42 U.S.C. § 1983.

(ECF Nos. 1, 2). When Plaintiff filed this case on July 23 21, 2025, he neither paid the filing fee
for this action nor submitted an application to proceed in 24 forma pauperis (IFP). The Court
issued an order on July 25, 2025, giving Plaintiff forty-five days to either (1) submit a completed
and signed IFP application or (2) pay the filing fee of \$405. (ECF 25 No. 4).

The Court warned Plaintiff that “[f]ailure to comply with this order will result in dismissal 26 of
this action.” (Id.) (emphasis omitted). The forty-five-day period has expired, and Plaintiff has 27
failed to pay the filing fee, submit a completed and signed IFP application, or otherwise respond
28 1 to the Court’s order. 2 Accordingly, the Court will recommend dismissal based on Plaintiff’s
failure to pay the 3 filing fee or file an IFP application, failure to prosecute this case, and failure to
comply with court 4 orders.

In determining whether to dismiss a[n] [action] for failure to prosecute or failure to 5 comply with
a court order, the Court must weigh the following factors: (1) the 6 public’s interest in expeditious
resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to
defendants/respondents; (4) the 7 availability of less drastic alternatives; and (5) the public policy
favoring disposition of cases on their merits.

8 Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002) (citing Ferdik v. Bonzelet, 963 F.2d 9
1258, 1260-61 (9th Cir. 1992)). 10 “‘The public’s interest in expeditious resolution of litigation
always favors dismissal.’” 11 Id. (quoting Yourish v. California Amplifier, 191 F.3d 983, 990 (9th
Cir. 1999)).

Therefore, the 12 first factor weighs in favor of dismissal. 13 As to the Court’s need to manage its
docket, “[t]he trial judge is in the best position to 14 determine whether the delay in a particular
case interferes with docket management and the 15 public interest.... It is incumbent upon the

Court to manage its docket without being subject to 16 routine noncompliance of litigants....” Id. (citations omitted).

Here, Plaintiff has failed to 17 respond to the Court’s order to pay the filing fee or file an IFP application. (ECF No. 4). 18 Moreover, Plaintiff has filed nothing since he initiated this case on July 21, 2025. This failure to 19 respond is delaying the case and interfering with docket management, as the case cannot progress 20 without the filing fee being paid or Plaintiff being permitted to proceed IFP.

See 28 U.S.C. 21 §§ 1914, 1915. Therefore, the second factor weighs in favor of dismissal. 22 Turning to the risk of prejudice, “pendency of a lawsuit is not sufficiently prejudicial in and of itself to warrant dismissal.” Id. (citing *Yourish*, 191 F.3d at 991).

However, “delay 23 inherently increases the risk that witnesses’ memories will fade and evidence will become stale,” 24 id. at 643, and it is Plaintiff’s failure to prosecute this case and comply with court orders that is 25 causing delay.

Therefore, the third factor weighs in favor of dismissal. 26 As for the availability of lesser sanctions, given that Plaintiff has chosen not to prosecute 27 this action and has failed to comply with a court order, despite being warned of possible 28 1 | dismissal, there is little available to the Court besides dismissal which would constitute a 2 | satisfactory lesser sanction while protecting the Court from further unnecessary expenditure of its 3 || scarce resources.

Notably, given the stage of these proceedings, the preclusion of evidence or 4 || witnesses is not available. Further, because the Court is recommending dismissal without 5 || prejudice, it has stopped short of recommending the harsher sanction of dismissal with prejudice. 6 Therefore, the fourth factor weighs in favor of dismissal. 4 Finally, because public policy favors disposition on the merits, this final factor weighs g against dismissal.

Id. 9 After weighing the factors, the Court finds that dismissal without prejudice is appropriate. Accordingly, IT IS ORDERED that the Clerk of Court is respectfully directed to assign a District Judge to this case. And IT IS RECOMMENDED that: 2 1. This action be dismissed, without prejudice, based on Plaintiffs failure to pay the filing fee or file an in forma pauperis application, failure to prosecute this case, and failure to comply with court orders; and Is 2.

The Clerk of Court be directed to close this case. 16 These findings and recommendations are submitted to the United States District Judge 17 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within thirty (30) days 18 | after being served with these findings and recommendations, Plaintiff may file written objections 19 | with the Court.

Such a document should be captioned “Objections to Magistrate Judge’s Findings 20 | and Recommendations.” Any objections shall be limited to no more than fifteen (15) pages, 21 |

including exhibits. Plaintiff is advised that failure to file objections within the specified time may
22 | result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir.
23 | 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)). IT IS SO ORDERED.
24 25 | Dated: _ September 23, 2025 [sf ey — UNITED STATES MAGISTRATE JUDGE 27 28