

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Anthony Latanzio v. Martinez, et al.

Latanzio v. Martinez · No. 1:24-cv-01352-BAM (PC) · Decided December 8, 2025

SUMMARY

The document is a magistrate judge’s Findings and Recommendations in Anthony Latanzio’s 42 U.S.C. § 1983 action against Martinez and others. It recommends dismissal without prejudice for failure to prosecute and failure to obey a court order after Plaintiff failed to respond to a screening order, and directs the Clerk to randomly assign a district judge.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Barbara A. McAuliffe
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 8, 2025
DOCKET	1:24-cv-01352-BAM (PC)
DISPOSITION	other
PROCEDURAL POSTURE	A magistrate judge issued findings and recommendations that the prisoner's § 1983 action be dismissed without prejudice for failure to obey a court order and failure to prosecute, and ordered the Clerk to randomly assign a district judge.
STANDARD OF REVIEW	Dismissal for failure to prosecute or failure to obey a court order is evaluated under the five-factor test considering the public 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PRECEDENTIAL VALUE	nonprecedential
PARTIES	Anthony Latanzio v. Martinez, et al.

TOPICS

- civil procedure
- sanctions
- section 1983
- prisoners rights
- civil rights

PRACTICE AREAS

civil procedure civil rights prisoner litigation remedies

QUESTIONS PRESENTED

1. Whether Plaintiff's failure to respond to the screening order and failure to prosecute warranted dismissal without prejudice.
2. Whether the five-factor dismissal analysis supported dismissal and whether less drastic sanctions were adequate alternatives.

HOLDINGS

1. A district court may dismiss an action, including without prejudice, when a party fails to prosecute, fails to obey a court order, or fails to comply with applicable local rules, provided the relevant dismissal factors support that sanction.
2. Dismissal without prejudice was the appropriate recommended sanction because Plaintiff ignored the Court's order and ceased litigating, while lesser sanctions appeared unlikely to be effective.

KEY QUOTATIONS

"In determining whether to dismiss an action, the Court must consider several factors: (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 4)

"Thus, Plaintiff had adequate warning that dismissal could result from his noncompliance." (at 7)

FACTUAL BACKGROUND

Anthony Latanzio, a state prisoner proceeding pro se and in forma pauperis, brought a § 1983 action alleging civil-rights violations. The Court's screening order found a cognizable Eighth Amendment failure-to-protect claim against Defendants Dominguez and Martinez, but no other cognizable claims, and directed Plaintiff to amend or elect to proceed on the identified claims. Plaintiff failed to respond or otherwise communicate with the Court after the deadline expired, despite being warned that noncompliance could result in dismissal without prejudice.

PROCEDURAL HISTORY

Plaintiff filed a pro se, in forma pauperis civil-rights action under 42 U.S.C. § 1983. After screening the complaint, the Court found a cognizable failure-to-protect claim against Defendants Dominguez and Martinez but required Plaintiff either to file an amended complaint or elect to proceed on those claims. Plaintiff did neither by the deadline, prompting these findings and recommendations for dismissal without prejudice. The recommendation was submitted to the assigned district judge under 28 U.S.C. § 636(b)(1), with a fourteen-day objection period.

DISPOSITION

other

CASES CITED

- Thompson v. Hous. Auth., 782 F.2d 829, 831 (9th Cir. 1986)
- Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-62 (9th Cir. 1992)
- Malone v. U.S. Postal Serv., 833 F.2d 128, 130-33 (9th Cir. 1987)
- Henderson v. Duncan, 779 F.2d 1421, 1423-24 (9th Cir. 1986)
- Carey v. King, 856 F.2d 1439, 1440 (9th Cir. 1988)
- Anderson v. Air W., 542 F.2d 522, 524 (9th Cir. 1976)
- Pagtalunan v. Galaza, 291 F.3d 639, 643 (9th Cir. 2002)
- In re Phenylpropanolamine (PPA) Prods. Liab. Litig., 460 F.3d 1217, 1228 (9th Cir. 2006)
- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)

OPINION

Martinez

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 ANTHONY LATANZIO, Case No. 1:24-cv-01352-BAM (PC) 12 Plaintiff, ORDER
DIRECTING CLERK OF COURT TO

RANDOMLY ASSIGN DISTRICT JUDGE TO

13 v. ACTION

14 MARTINEZ, et al., FINDINGS AND RECOMMENDATIONS

REGARDING DISMISSAL OF ACTION FOR

15 Defendants. FAILURE TO PROSECUTE AND FAILURE

TO OBEY COURT ORDER

16 (ECF No. 7) 17

FOURTEEN (14) DAY DEADLINE

18 19 I. Background 20 Plaintiff Anthony Latanzio (“Plaintiff”) is a state prisoner proceeding pro se and in forma 21 pauperis in this civil rights action under 42 U.S.C. § 1983. This matter was referred to a United 22 States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 23 On October 28, 2025, the Court screened Plaintiff’s complaint and found that it stated a 24 cognizable claim against Defendants Dominguez and Martinez for failure to protect in violation 25 of the Eighth Amendment, but failed to state any other cognizable claims for relief

against any 26 other defendant. (ECF No. 7.) Plaintiff was directed to file a first amended complaint curing the 27 deficiencies identified in the Court's screening order or to notify the Court of his willingness to 28 proceed only on his claims against Defendant Dominguez and Martinez for failure to protect in 1 violation of the Eighth Amendment, within thirty days. (Id.) Plaintiff has not responded to the

2 October 28, 2025 screening order or otherwise communicated with the Court, and the deadline to

3 do so has now expired. 4 II. Failure to Prosecute and Failure to Obey a Court Order 5 A. Legal Standard 6 Local Rule 110 provides that "[f]ailure . . . of a party to comply with these Rules or with 7 any order of the Court may be grounds for imposition by the Court of any and all sanctions . . . 8 within the inherent power of the Court." District courts have the inherent power to control their 9 dockets and "[i]n the exercise of that power they may impose sanctions including, where 10 appropriate, . . . dismissal." *Thompson v. Hous. Auth.*, 782 F.2d 829, 831 (9th Cir. 1986). A 11 court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, 12 failure to obey a court order, or failure to comply with local rules. See, e.g., *Ghazali v. Moran*, 46 13 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 14 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring 15 amendment of complaint); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130–33 (9th Cir. 1987) 16 (dismissal for failure to comply with court order). 17 In determining whether to dismiss an action, the Court must consider several factors: 18 (1) the public's interest in expeditious resolution of litigation; (2) the Court's need to manage its 19 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of 20 cases on their merits; and (5) the availability of less drastic sanctions. *Henderson v. Duncan*, 779 21 F.2d 1421, 1423 (9th Cir. 1986); *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1988). 22 B. Discussion 23 Here, Plaintiff's response to the Court's October 28, 2025 screening order is overdue and 24 he has failed to comply with the Court's order. The Court cannot effectively manage its docket if 25 Plaintiff ceases litigating his case. Thus, the Court finds that both the first and second factors 26 weigh in favor of dismissal. 27 The third factor, risk of prejudice to defendant, also weighs in favor of dismissal, since a 28 presumption of injury arises from the occurrence of unreasonable delay in prosecuting an action. 1 *Anderson v. Air W.*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor usually weighs against 2 dismissal because public policy favors disposition on the merits. *Pagtalunan v. Galaza*, 291 F.3d 3 639, 643 (9th Cir. 2002). However, "this factor lends little support to a party whose 4 responsibility it is to move a case toward disposition on the merits but whose conduct impedes 5 progress in that direction," which is the case here. In re Phenylpropanolamine (PPA) Products 6 Liability Litigation, 460 F.3d 1217, 1228 (9th Cir. 2006) (citation omitted). 7 Finally, the Court's warning to a party that failure to obey the court's order will result in 8 dismissal satisfies the "considerations of the alternatives" requirement. *Ferdik*, 963 F.2d at 1262; 9 *Malone*, 833 at 132–33; *Henderson*, 779 F.2d at 1424. Plaintiff was warned in the

Court's

10 October 28, 2025 screening order that failure to comply with that order would result in dismissal

11 of this action, without prejudice, for failure to obey a court order and for failure to prosecute.
12 (ECF No. 7, p. 12.) Thus, Plaintiff had adequate warning that dismissal could result from his 13
noncompliance. 14 Additionally, at this stage in the proceedings there is little available to the
Court that 15 would constitute a satisfactory lesser sanction while protecting the Court from
further 16 unnecessary expenditure of its scarce resources. As Plaintiff is proceeding in forma
pauperis in 17 this action, it appears that monetary sanctions will be of little use and the preclusion
of evidence 18 or witnesses is likely to have no effect given that Plaintiff has ceased litigating his
case. 19 III. Recommendation 20 Accordingly, the Court HEREBY ORDERS the Clerk of the
Court to randomly assign a 21 District Judge to this action. 22 Furthermore, the Court finds that
dismissal is the appropriate sanction and HEREBY 23 RECOMMENDS that this action be
dismissed, without prejudice, for failure to obey a Court 24 order and for Plaintiff's failure to
prosecute this action. 25 These Findings and Recommendations will be submitted to the United
States District 26 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)
(1). Within 27 fourteen (14) days after being served with these Findings and Recommendations,
the parties may 28 file written objections with the court. The document should be captioned
"Objections to 1 Magistrate Judge's Findings and Recommendations." Objections, if any, shall not
exceed 2 fifteen (15) pages or include exhibits. Exhibits may be referenced by document and page
3 number if already in the record before the Court. Any pages filed in excess of the 15-page 4 limit
may not be considered. The parties are advised that failure to file objections within the 5 specified
time may result in the waiver of the "right to challenge the magistrate's factual 6 findings" on
appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing *Baxter v. Sullivan*,
923 F.2d 1391, 1394 (9th Cir. 1991)). 8 IT IS SO ORDERED. 9 10 Dated: December 8, 2025 /s/
Barbara A. McAuliffe _

UNITED STATES MAGISTRATE JUDGE

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