

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Marcus Dean Gray v. Commissioner of Social Security

Gray v. Commissioner of Social Security · No. 2:24-cv-03155-CSK · Decided June 17, 2025

OPINION

(SS) Gray v. Commissioner of Social Security

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 MARCUS DEAN GRAY, Case No. 2:24-cv-03155-CSK 12 Plaintiff, 13 v. ORDER

14 COMMISSIONER OF SOCIAL

SECURITY,

15 Defendant. 16

17 18 Plaintiff Marcus Dean Gray, with the aid of counsel, filed this action on November 19 13,
2024.¹ (ECF No. 1.) Under the operative scheduling order, Defendant Commissioner 20 of Social
Security was to file a copy of the administrative complaint within 60 days of 21 service, and
Plaintiff’s motion for summary judgment was to be filed 30 days thereafter. 22 (ECF No. 3 at 3(a)-
(b).) On January 10, 2025, the Court granted the parties’ stipulated 23 request to extend the time
for Defendant to respond to Plaintiff’s complaint by forty-five 24 days. (ECF No. 7.) The
Commissioner filed two transcripts, one on February 24, 2025 25 and one on February 27, 2025.
(ECF Nos. 8, 10.) It is unclear why two transcripts were 26 filed. Based on the filing date of the
second transcript, Plaintiff’s motion for summary 27 1 This action was referred to the magistrate
judge under Local Rule 302(c)(15) and 28 proceeds on the consent of all parties. (ECF Nos. 4, 5,
9.) 1 judgment was due by March 31, 2025. 2 This deadline passed without any filing by Plaintiff.
In the interests of justice, the 3 Court refrained from dismissing at that time. Instead, on April 25,
2025, the Court 4 ordered Plaintiff to show cause why the case should not be dismissed for failure
to 5 prosecute, or to file his motion within fourteen days. (ECF No. 11.) To date, Plaintiff has 6
not responded to the order to show cause or filed his motion. Thus, the Court dismisses 7 for
failure to prosecute.

8 I. LEGAL STANDARDS

9 Under Federal Rule of Civil Procedure 41, a court may dismiss an action for 10 failure to
prosecute or failure to comply with the Federal Rules of Civil Procedure, the 11 court’s local
rules, or any order of the court. Fed. R. Civ. P. 41(b); see also Ghazali v. 12 Moran, 46 F.3d 52, 53
(9th Cir. 1995) (approving dismissal under Rule 41(b) for a party’s 13 failure to follow the district

court's local rules). This court's Local Rules are in accord. 14 See E.D. Cal. Local Rule 110 ("Failure of counsel or of a party to comply with these 15 Rules or with any order of the Court may be grounds for imposition by the Court of any 16 and all sanctions authorized by statute or Rule or within the inherent power of the 17 Court."). The court may act on its own accord in exercising this authority. Hells Canyon 18 Preservation Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005) (approving 19 sua sponte dismissals under Rule 41(b)). 20 The Ninth Circuit has found the following factors relevant in determining whether a 21 case should be dismissed under Rule 41(b): 22 (1) the public's interest in expeditious resolution of litigation;

(2) the court's need to manage its docket;

23 (3) the risk of prejudice to the defendant(s);

(4) the availability of less drastic alternatives; and

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(5) the public policy favoring disposition of cases on their merits.

25 Applied Underwriters, Inc. v. Lichtenegger, 913 F.3d 884, 890 (9th Cir. 2019). 26

II. DISCUSSION

27 Applying the factors for involuntary dismissal, the Court finds this action should be 28 1 | dismissed. See Applied Underwriters, 913 F.3d at 890. The first two factors weigh in 2 | favor of dismissal because the public has a strong interest in expeditious resolution of 3 | litigation, and Plaintiff has failed to take the steps necessary to move this case forward. 4 | In addition, this district court in particular has a strong need and interest in managing its 5 || docket given the extremely high caseload in the Eastern District of California. While the 6 || risk of prejudice to Defendant is somewhat minimal, there is some prejudice given the 7 || impact on resources of stale litigation. 8 As to the fourth factor, the Court has already tried less drastic alternatives. 9 | Specifically, Plaintiff previously missed the filing deadline and was given an opportunity 10 | to explain this failure. (ECF No. 11.) Plaintiff did not respond in any way. 11 Finally, as to the public policy favoring disposition of cases on their merits, that 12 || factor is outweighed here. Indeed, it is Plaintiff's own failure to prosecute the case and 13 || comply with the rules that precludes a resolution on the merits. 14 Therefore, after careful consideration, the Court concludes dismissal for failure to 15 || prosecute is appropriate. See Hells Canyon, 403 F.3d at 689 (approving court's sua 16 || sponte dismissal under Rule 41(b) for a plaintiff's failure to prosecute or comply with the 17 || Federal Rules of Civil Procedure or the court's orders).

18 ORDER

19 Accordingly, IT IS HEREBY ORDERED that: 20 1. Plaintiff's action be DISMISSED; and 21 2. The Clerk of Court be directed to CLOSE this case. 22 23 | Dated: June 17, 2025 Cc (i s ☐☐

24 CHI S00 KIM

25 UNITED STATES MAGISTRATE JUDGE

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