

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Mark A. Jones v. Senogor, et al.

Jones v. Senogor · No. 2:17-cv-1422 DC AC P · Decided December 29, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends dismissing Mark A. Jones’s 42 U.S.C. § 1983 action without prejudice for failure to prosecute. The recommendation follows Jones’s failure to appear at a hearing concerning former counsel’s motion to withdraw and failure to respond to an order to show cause.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Allison Claire, United States Magistrate Judge
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 29, 2025
DOCKET	2:17-cv-1422 DC AC P
DISPOSITION	remanded
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute.
STANDARD OF REVIEW	Dismissal for failure to prosecute is evaluated under the five factors identified in <i>Ferdik v. Bonzelet</i> : 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 alternatives.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- sanctions
- civil procedure
- section 1983
- civil rights
- remedies

PRACTICE AREAS

- civil procedure
- civil rights
- remedies

QUESTIONS PRESENTED

1. Whether plaintiff's repeated failure to appear, communicate with the court, and respond to the order to show cause warranted dismissal for failure to prosecute under Federal Rule of Civil Procedure 41(b).

HOLDINGS

1. Because the action could not move forward without plaintiff's participation and the applicable five factors weighed in favor of dismissal, dismissal without prejudice under Federal Rule of Civil Procedure 41(b) was recommended.

KEY QUOTATIONS

“Because this case cannot move forward without plaintiff’s participation, the court finds the factors weigh in favor of dismissal.” (at 2)

“Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b).” (at 2)

FACTUAL BACKGROUND

Plaintiff failed to appear at a court hearing concerning his former counsel's motion to withdraw and did not contact the courtroom deputy as directed to arrange receipt of Zoom information or request an in-person hearing. The court then ordered plaintiff to show cause why the action should not be dismissed for failure to prosecute. Plaintiff allowed the response deadline to expire without responding or otherwise complying with the court's order.

PROCEDURAL HISTORY

Plaintiff, a former state prisoner proceeding pro se under 42 U.S.C. § 1983, was ordered to attend a hearing on former counsel's motion to withdraw and to contact the court regarding hearing arrangements. Plaintiff failed to contact the court and did not appear. After the court issued an order to show cause warning that the action could be dismissed for failure to prosecute, plaintiff failed to respond. The magistrate judge recommended dismissal without prejudice and advised the parties of their right to object under 28 U.S.C. § 636(b)(1).

DISPOSITION

remanded

REMAND INSTRUCTIONS

No remand was ordered. The magistrate judge recommended that the assigned district judge dismiss the action without prejudice under Federal Rule of Civil Procedure 41(b). Parties were permitted fourteen days to file objections; failure to object could waive the right to appeal the district court's order.

CASES CITED

- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)

- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

OPINION

Senogor

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 MARK A. JONES, No. 2:17-cv-1422 DC AC P 12 Plaintiff,

13 v. FINDINGS AND RECOMMENDATIONS

14 SENOGOR, et al., 15 Defendants. 16 17 Plaintiff is a former state prisoner proceeding pro se with a civil rights action pursuant to 18 42 U.S.C. § 1983. By order filed September 24, 2025, plaintiff was ordered to appear at the

19 November 5, 2025 hearing on his former counsel's motion to withdraw as counsel and was 20 cautioned that failure to appear would result in a recommendation that this action be dismissed for 21 failure to prosecute. ECF No. 90. Plaintiff was further directed to contact the undersigned's 22 courtroom deputy to either provide an email address for receipt of Zoom information or request 23 an in-person hearing. Id. After plaintiff failed to contact the court and did not appear at the 24 hearing, he was ordered to show cause why this action should not be dismissed for failure to 25 prosecute and cautioned that failure to respond would result in a recommendation that this action 26 be dismissed without further warning. ECF No. 93. The time to respond has now expired, and 27 plaintiff has not filed a response to the order to show cause or otherwise responded to the court's 28 order.] In recommending this action be dismissed for failure to prosecute, the court has 2 || considered "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to 3 || manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring 4 | disposition of cases on their merits; and (5) the availability of less drastic alternatives." *Ferdik v. 5 || Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (citation omitted). Because this case cannot 6 || move forward without plaintiffs participation, the court finds the factors weigh in favor of 7 || dismissal. 8 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without 9 || prejudice pursuant to Federal Rule of Civil Procedure 41(b). 10 These findings and recommendations are submitted to the United States District Judge 11 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 12 | after being served with these findings and recommendations, any party may file written 13 || objections with the court and serve a copy on all parties. Such a document should be captioned 14 | "Objections to Magistrate Judge's Findings and Recommendations." Any response to the 15 || objections shall be served and filed within fourteen days after service of the objections. The 16 || parties are advised that failure to file objections within the specified time may waive the right to 17 || appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). 18 | DATED: December 29,

2025 * 19 ththienr—Chnp—e_

ALLISON CLAIRE

20 UNITED STATES MAGISTRATE JUDGE

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