

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Drumwright v. Pascua

Drumwright · No. 1:20-cv-01055-KES-CDB (PC) · Decided July 22, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends dismissing Marquise Louis Drumwright’s 42 U.S.C. § 1983 action without prejudice. The recommendation is based on the plaintiff’s failure to keep the Court apprised of his current address, comply with applicable Local Rules, and prosecute the action after court mail was returned as undeliverable.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 22, 2025
DOCKET	1:20-cv-01055-KES-CDB (PC)
DISPOSITION	other
PROCEDURAL POSTURE	A magistrate judge issued findings and recommendations that the plaintiff's prisoner civil-rights action be dismissed without prejudice for failure to keep the Court apprised of his address, failure to obey Local Rules, and failure to prosecute. The recommendations were submitted to the assigned district judge for review under 28 U.S.C. § 636(b)(1)(C), subject to a 14-day objection period.
STANDARD OF REVIEW	A district court evaluating dismissal for failure to prosecute or failure to comply with court rules weighs five factors: 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 sanctions.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Marquise Louis Drumwright v. F. Pascua, et al.

TOPICS

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

PRACTICE AREAS

civil procedure

prisoner civil rights

federal courts

sanctions and dismissal

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice because Plaintiff failed to keep the Court and opposing parties apprised of his current address.
2. Whether dismissal without prejudice was warranted under the five-factor Ninth Circuit test for failure to prosecute and failure to comply with court rules.

HOLDINGS

1. A pro se plaintiff's failure to notify the Court of a changed address, after mail is returned as undeliverable and the plaintiff fails to respond within the period required by the Local Rules, may warrant dismissal without prejudice for failure to prosecute and failure to comply with court rules.
2. The five factors governing dismissal for failure to prosecute weighed sufficiently in favor of dismissal without prejudice.

KEY QUOTATIONS

"District courts have inherent power to control their dockets" (at 2)

"In determining whether to dismiss an action for lack of prosecution, the district court is required to weigh 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 3)

"Accordingly, for the reasons stated above, the Court HEREBY RECOMMENDS that this action be dismissed, without prejudice, based on Plaintiff's failure to obey the Local Rules and to prosecute this action." (at 5)

FACTUAL BACKGROUND

Plaintiff's action proceeded on specified Eighth Amendment and First Amendment claims after screening and dismissal of one defendant. Orders mailed to Plaintiff at Mule Creek State Prison were returned as undeliverable after the prison indicated that he had been discharged, and a search of the California Department of Corrections and Rehabilitation's records produced no results. Plaintiff had not filed a change-of-address notice or any other filing since the relevant orders were returned, despite having been warned that failure to update his address could result in dismissal.

PROCEDURAL HISTORY

Drumwright, a state prisoner proceeding pro se and in forma pauperis under 42 U.S.C. § 1983, was permitted to proceed on Eighth Amendment failure-to-protect and excessive-force claims and a First Amendment retaliation claim; one defendant was dismissed. After orders mailed to his address of record were returned as undeliverable,

Drumwright filed no notice of change of address or other filing. The magistrate judge recommended dismissal without prejudice after applying the Ninth Circuit's five-factor failure-to-prosecute analysis.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. The magistrate judge recommended dismissal without prejudice and directed that the findings and recommendations be submitted to the assigned district judge, with objections due within 14 days.

CASES CITED

- Thompson v. Housing Auth., City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-62 (9th Cir. 1992)
- Malone v. U.S. Postal Service, 833 F.2d 128, 130-31 (9th Cir. 1987)
- Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986)
- Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
- In re Phenylpropanolamine (PPA) Products Liability Litigation, 460 F.3d 1217, 1226, 1228 (9th Cir. 2006)
- Anderson v. Air W., 542 F.2d 522, 524 (9th Cir. 1976)
- Pagtalunan v. Galaza, 291 F.3d 639, 643 (9th Cir. 2002)
- Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014)