

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Dias v. Avila

Dias · No. 1:24-cv-00354-KES-SAB · Decided March 4, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends dismissing Sean Dias’s pro se civil rights action with prejudice under Federal Rule of Civil Procedure 41(b) and Local Rule 110. The recommendation is based on Plaintiff’s failure to file an amended complaint after being granted leave to amend and warned that noncompliance could result in dismissal.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Stanley A. Boone
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 4, 2025
DOCKET	1:24-cv-00354-KES-SAB
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal with prejudice of a pro se civil-rights action after the plaintiff failed to file an amended complaint as ordered.
STANDARD OF REVIEW	The court applied the five-factor framework governing involuntary dismissal under Federal Rule of Civil Procedure 41(b): 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PRECEDENTIAL VALUE	nonprecedential

TOPICS

- default
- sanctions
- civil procedure
- section 1983
- civil rights

PRACTICE AREAS

- civil procedure
- civil rights
- federal courts
- remedies

QUESTIONS PRESENTED

1. Whether the action should be involuntarily dismissed with prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with a court order.
2. Whether the relevant Rule 41(b) dismissal factors support dismissal after the plaintiff failed to amend despite an express warning that noncompliance could result in dismissal with prejudice.

HOLDINGS

1. A federal court may involuntarily dismiss an action under Federal Rule of Civil Procedure 41(b) when a litigant fails to prosecute the action or fails to comply with a court order, and dismissal may be imposed sua sponte under appropriate circumstances.
2. Dismissal with prejudice was warranted because the Rule 41(b) factors supported dismissal and the district court had expressly warned plaintiff that failure to timely amend could result in dismissal with prejudice.

KEY QUOTATIONS

“the consensus among our sister circuits, with which we agree, is that courts may dismiss under Rule 41(b), sua sponte, at least under certain circumstances.” (at 1)

“trial courts do not have time to waste on multiple failures by aspiring litigants to follow the rules and requirements of our courts.” (at 2)

FACTUAL BACKGROUND

Plaintiff was proceeding pro se in an action brought in part under 42 U.S.C. § 1983. After the district judge granted defendants' motion to dismiss, plaintiff was given leave to amend and expressly warned that failure to file a timely amended complaint could result in dismissal with prejudice. Plaintiff did not comply with the January 6, 2025 order, and more than thirty days passed without an amended complaint or other response.

PROCEDURAL HISTORY

Plaintiff filed an action in part under 42 U.S.C. § 1983. The assigned district judge adopted findings and recommendations granting defendants' motion to dismiss, granted plaintiff leave to amend, and warned that failure to timely amend could result in dismissal with prejudice. After more than thirty days passed without an amended complaint, the magistrate judge recommended dismissal with prejudice for failure to prosecute and failure to comply with a court order, subject to objections and review by the assigned district judge.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. The magistrate judge recommended dismissal with prejudice and directed that the findings and recommendations be submitted to the assigned district judge under 28 U.S.C. § 636(b)(1). Plaintiff

was given fourteen days after service to file objections.

CASES CITED

- Applied Underwriters v. Lichtenegger, 913 F.3d 884, 889 (9th Cir. 2019)
- Hells Canyon Pres. Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005)
- Applied Underwriters v. Lichtenegger, 913 F.3d 884, 890 (9th Cir. 2019)
- Malone v. U.S. Postal Service, 833 F.2d 128, 130-31 (9th Cir. 1987)
- Bautista v. Los Angeles County, 216 F.3d 837, 841 (9th Cir. 2000)
- 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)
- Pagtalunan v. Galaza, 291 F.3d 639, 644 (9th Cir. 2002)
- Sibron v. New York, 392 U.S. 40, 57 (1968)
- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)