

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Foust v. California Medical Facility

Foust · No. 2:21-CV-0540-DJC-DMC-P · Decided March 18, 2025

SUMMARY

The document contains findings and recommendations in a prisoner civil rights action under 42 U.S.C. § 1983. The magistrate judge recommends dismissal without prejudice for lack of prosecution and failure to comply with an order directing the plaintiff to file a fourth amended complaint.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dennis M. Cota
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 18, 2025
DOCKET	2:21-CV-0540-DJC-DMC-P
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations in a prisoner civil-rights action recommending dismissal without prejudice for failure to prosecute and failure to comply with court rules and orders.
STANDARD OF REVIEW	Dismissal as a sanction for failure to prosecute or failure to comply with court orders is evaluated under five factors: the public interest in expeditious resolution, the court's need to manage its docket, the risk of prejudice to opposing parties, the public policy favoring disposition on the merits, and the availability of less drastic sanctions.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Carl Foust v. California Medical Facility, Aqualian, Kahlon

TOPICS

- sanctions
- civil procedure
- prisoners rights
- civil rights

PRACTICE AREAS

- civil procedure
- prisoner civil rights
- sanctions

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for failure to prosecute and failure to comply with court rules and the court's order to file a fourth amended complaint.

HOLDINGS

1. Dismissal without prejudice was appropriate because Plaintiff failed to file the ordered fourth amended complaint after receiving a warning that noncompliance could result in dismissal.

KEY QUOTATIONS

“Those factors are: (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its own docket; (3) the risk of prejudice to opposing parties; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.” (at 2)

FACTUAL BACKGROUND

Plaintiff is a prisoner proceeding pro se in a civil-rights action under 42 U.S.C. § 1983. The court ordered him to file a fourth amended complaint within 30 days and warned that failure to comply could result in dismissal. Plaintiff did not file the required amended complaint.

PROCEDURAL HISTORY

Plaintiff, proceeding pro se, brought an action under 42 U.S.C. § 1983. After the court directed him on January 21, 2025, to file a fourth amended complaint within 30 days and warned that noncompliance could result in dismissal, Plaintiff did not file the amended complaint. The magistrate judge recommended dismissal without prejudice, subject to objections and review by the assigned district judge.

DISPOSITION

other

CASES CITED

- *Bautista v. Los Angeles County*, 216 F.3d 837, 841 (9th Cir. 2000)
- *Malone v. U.S. Postal Service*, 833 F.2d 128, 130, 132-33 & n.1 (9th Cir. 1987)
- *Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995) (per curiam)
- *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986)
- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991)