

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Stelly v. Shiffer

Stelly · No. 24-cv-06775-JSC · Decided April 24, 2025

SUMMARY

The court grants Plaintiff additional time, until May 30, 2025, to file a signed amended complaint in this § 1983 action. The order explains that the previously filed amended complaint was unsigned and warns that failure to timely correct the omission will result in the amended complaint being stricken, with the case proceeding only on the original excessive-force claims against Deputies Kapustin and Shiffer.

CASE DETAILS

COURT	United States District Court for the Northern District of California
JURISDICTION	United States District Court for the Northern District of California
DECIDED	April 24, 2025
DOCKET	24-cv-06775-JSC
DISPOSITION	other
PROCEDURAL POSTURE	Pro se prisoner civil-rights action under 42 U.S.C. § 1983; the court addressed the lack of a signature on Plaintiff's amended complaint and granted additional time to correct the omission.
PRECEDENTIAL VALUE	Unpublished district-court order; precedential status is not identified in the source.

TOPICS

- pleadings
- motion to amend
- civil procedure
- section 1983
- prisoners rights

PRACTICE AREAS

- civil procedure
- civil rights
- prisoner litigation

QUESTIONS PRESENTED

1. Whether an unsigned amended complaint must be stricken under Federal Rule of Civil Procedure 11(a) or whether Plaintiff should receive additional time to correct the omission.

2. What claims and defendants would remain if Plaintiff failed to file a signed amended complaint by the court-ordered deadline.

HOLDINGS

1. The court granted Plaintiff until May 30, 2025, to file a signed amended complaint, either by signing and refiling the existing amended complaint or by filing a new signed amended complaint.
2. If Plaintiff failed to file a signed amended complaint by the deadline and in compliance with the court's order, the unsigned amended complaint would be stricken, the case would proceed only on the original excessive-force claims against Deputies Kapustin and Shiffer, and all other claims would be dismissed without further leave to amend.

KEY QUOTATIONS

“Every pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney's name—or by a party personally if the party is unrepresented. ... The court must strike an unsigned paper unless the omission is promptly corrected after being called to the attorney's or party's attention.” (at 2)

FACTUAL BACKGROUND

Plaintiff, an inmate at the Martinez Detention Facility proceeding without counsel, filed a civil-rights action alleging excessive force and other claims. After screening, the court allowed excessive-force claims against Deputies Kapustin and Shiffer to proceed and gave Plaintiff leave to amend deficient claims, but the amended complaint Plaintiff filed was not signed.

PROCEDURAL HISTORY

Plaintiff filed a § 1983 action, and Magistrate Judge Nathaniel E. Cousins conducted screening under 28 U.S.C. § 1915A, finding potentially viable excessive-force claims against Deputies Kapustin and Shiffer while granting leave to amend other claims. Plaintiff filed an amended complaint, but it was unsigned. After reassignment to the district judge because dismissal of claims or defendants was anticipated and the defendants had not consented to magistrate-judge jurisdiction, the court ordered Plaintiff to file a signed amended complaint by May 30, 2025.

DISPOSITION

other

CASES CITED

- Williams v. King, 875 F.3d 500, 203 (9th Cir. 2017)
- Ramirez v. Cty. Of San Bernardino, 806 F.3d 1002, 1008 (9th Cir. 2015)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir.1992)

OPINION

Stelly v. Shiffer

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 KAMANI COURVOISIER STELLY, Case No. 24-cv-06775-JSC 8 Plaintiff,

ORDER GRANTING ADDITIONAL

9 v. TIME TO FILE SIGNED AMENDED

COMPLAINT

10 SHIFFER, et al., Defendants. 11 12 Plaintiff, an inmate in the Martinez Detention Facility (“MDF”) proceeding without 13 representation by an attorney, filed this civil rights action under 42 U.S.C. § 1983. The case was 14 assigned to Magistrate Judge Nathaniel E. Cousins, and Plaintiff consented to his jurisdiction. 15 (ECF No. 4.) Judge Cousins reviewed the complaint under 28 U.S.C. § 1915A and determined 16 that Plaintiff stated claims capable of judicial determination against Defendants Deputy Kapustin 17 and Deputy Shiffer for using excessive force.¹ (ECF No. 7 at 2:20-21.) Judge Cousins concluded 18 Plaintiff’s remaining claims were not capable of judicial determination (see id. at 3:4-8 19 (addressing claims against Deputy Cubit); id. at 3:9-22 (addressing claims regarding the condition 20 of his cell); id. at 3:23-4:9 (addressing claims regarding his medical care), and granted Plaintiff 21 leave to file an amended complaint to correct the deficiencies in these claims (id. at 4:22-23). 22 After Plaintiff filed a timely amended complaint (ECF No. 10), the case was reassigned to 23 the undersigned District Judge because Judge Cousins concluded one or more claims or 24 Defendants needed to be dismissed and Defendants had not yet consented to the jurisdiction of a 25 Magistrate Judge (ECF No. 11 (citing *Williams v. King*, 875 F.3d 500, 203 (9th Cir. 2017) 26 27 1 The order advised Plaintiff that he “may” clarify in his amended complaint whether, at the time 1 (holding Magistrate Judge lacked jurisdiction to dismiss claims on initial review because unserved 2 defendants had not consented to proceed before magistrate judge)). The amended complaint, 3 however, is not signed. (See ECF No. 10 at 3.) Rule 11(a) of the Federal Rules of Civil 4 Procedure provides: 5 Every pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney’s name—or by a party 6 personally if the party is unrepresented. ... The court must strike an unsigned paper unless the omission is promptly corrected after being 7 called to the attorney’s or party’s attention. 8 Fed. R. Civ. P. 11(a). 9 So, on or before May 30, 2025, Plaintiff may file a signed amended complaint. This may 10 be a copy of the amended complaint he already filed, but with his signature, or a new amended 11 complaint with his signature. With respect to his amended complaint, Plaintiff is reminded: 12 The amended complaint must include the caption and civil case number used in this order, Case No. 24-cv-06775 [JSC] (PR), and 13 the words “AMENDED COMPLAINT” on the first page. If using the court form complaint, Plaintiff must answer all the questions on 14 the form in order for the action to proceed. The amended complaint supersedes the

original, the latter being treated thereafter as 15 nonexistent. *Ramirez v. Cty. Of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015). Consequently, claims not included in an 16 amended complaint are no longer claims, and defendants not named in an amended complaint are no longer defendants. See *Ferdik v. 17 Bonzelet*, 963 F.2d 1258, 1262 (9th Cir.1992) 18 (ECF No. 7 at 4:24-5:5.) 19 Plaintiff's failure to file a signed amended complaint by the deadline and in 20 accordance with the order of dismissal with leave to amend (ECF No. 7) will result in the 21 unsigned amended complaint being stricken, the case proceeding only on the basis of the 22 excessive force claims against Deputies Kapustin and Shiffer from the original complaint, 23 and the dismissal of all other claims without further leave to amend. 24 IT IS SO ORDERED. 25 Dated: April 24, 2025 26 27