

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Castro v. Gipson

Castro v. Gipson · No. 3:24-cv-0789-DMS-DEB · Decided March 24, 2025

SUMMARY

The United States District Court for the Southern District of California dismissed Dennis Castro’s § 1983 civil rights action against prison officials. The court dismissed the action for failure to state a plausible claim and failure to prosecute after Castro failed to amend his complaint as ordered, and directed the Clerk to enter final judgment and close the case.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Dana M. Sabraw
JURISDICTION	United States District Court for the Southern District of California
DECIDED	March 24, 2025
DOCKET	3:24-cv-0789-DMS-DEB
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court sua sponte dismissed a prisoner civil-rights action after previously dismissing the complaint for failure to comply with Federal Rule of Civil Procedure 8 and failure to state a claim, granting leave to amend, and warning that failure to amend could result in dismissal of the entire action.
STANDARD OF REVIEW	The court exercised its authority to dismiss sua sponte for failure to state a claim and failure to prosecute or comply with a court order.
PRECEDENTIAL VALUE	unpublished district-court order; precedential status not stated in the opinion

TOPICS

- section 1983
- pleadings
- motions to dismiss
- civil procedure
- prisoners rights

PRACTICE AREAS

- civil rights
- civil procedure
- prisoner litigation

QUESTIONS PRESENTED

1. Whether the action should be dismissed for failure to state a plausible claim under 42 U.S.C. § 1983.
2. Whether the action should be dismissed under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with the court's order requiring amendment.

HOLDINGS

1. The action was properly dismissed because Plaintiff failed to state a plausible claim under 42 U.S.C. § 1983.
2. A district court may dismiss an action under Federal Rule of Civil Procedure 41(b) when the plaintiff fails to prosecute or fails to comply with a court order, including an order requiring amendment of the complaint.

KEY QUOTATIONS

“The Court DISMISSES this civil action in its entirety based on Plaintiff’s failure to state a plausible § 1983 claim and his failure to prosecute this action.” (at 2)

FACTUAL BACKGROUND

Dennis Castro, a prisoner at R. J. Donovan Correctional Facility, filed a pro se civil-rights action under 42 U.S.C. § 1983 against multiple defendants. After granting his motion to proceed in forma pauperis, the court found that his complaint failed to comply with Rule 8 and failed to state a claim, but gave him 45 days to amend and warned that failure to do so could result in dismissal of the entire action. Castro neither amended the complaint nor communicated with the court after the deadline passed.

PROCEDURAL HISTORY

Castro filed a pro se action under 42 U.S.C. § 1983 and later moved to proceed in forma pauperis. The court granted in forma pauperis status, dismissed the complaint with leave to amend, and identified its pleading deficiencies. Castro did not amend the complaint or otherwise communicate with the court within the allotted time. The court dismissed the action in its entirety for failure to state a plausible claim and failure to prosecute and directed entry of final judgment.

DISPOSITION

dismissed

CASES CITED

- Lira v. Herrera, 427 F.3d 1164, 1169 (9th Cir. 2005)
- Edwards v. Marin Park, 356 F.3d 1058, 1065 (9th Cir. 2004)
- Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 1986)

OPINION

Castro v. Gipson

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 DENNIS CASTRO, Case No.: 3:24-cv-0789-DMS-DEB

CDCR #V33841,

12

ORDER DISMISSING CIVIL

Plaintiff,

13 ACTION FOR FAILING TO STATE

vs. A CLAIM AND FAILING TO

14

PROSECUTE

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CONNIE GIPSON, J. HILL, AMADOR,

16 D. EUSTAQUIO, SEGOVIA, WINGO,

SURKHI, M. VILORIA, GONZALEZ, J. 17

MOECKLY, H. MOSELEY, W. SMITH,

18 Defendant. 19

20 On May 1, 2024, Plaintiff Dennis Castro, a prisoner confined R. J. Donovan 21 Correctional
Facility and proceeding pro se, filed a civil rights action pursuant to 42 U.S.C. 22 § 1983. ECF No.
1. After the Court initially dismissed the action for failure to satisfy the 23 filing fee requirement,
Plaintiff filed a motion to proceed in forma pauperis (“IFP”) and 24 the case was reopened. On
September 6, 2024, the Court granted Plaintiff’s IFP motion 25 and sua sponte dismissed the
Complaint in its entirety for failure comply with Federal Rule 26 of Civil Procedure 8 and failure
to state a claim. ECF No. 7. 27 In the same order, the Court informed Plaintiff of the pleading
deficiencies of his 28 complaint and the granted him leave amended it within 45 days. Id. at 6–14.
Plaintiff was 1 informed that if he failed to timely amend, the Court would enter a final judgment
of 2 || dismissal based on his failure to state a claim and his failure to prosecute in compliance 3 ||
with the court order requiring amendment. Id. at 14 (citing *Lira v. Herrera*, 427 F.3d 1164, A ||
1169 (9th Cir. 2005) (“If a plaintiff does not take advantage of the opportunity to fix his 5
||complaint, a district court may convert the dismissal of the complaint into dismissal of the 6 ||
entire action.”)). 7 The time for Plaintiff to respond to the Court’s order has long passed and the
Court 8 ||has received no communication from Plaintiff. The failure of the plaintiff eventually to 9
||respond to the court’s ultimatum—either by amending the complaint or by indicating to the 10 ||
court that [he] will not do so—is properly met with the sanction of a Rule 41(b) dismissal.” 11 ||
Edwards v. Marin Park, 356 F.3d 1058, 1065 (9th Cir. 2004); *Henderson v. Duncan*, 779 12 || F.2d

1421, 1423 (9th Cir. 1986) (the Court has discretion to sua sponte dismiss a case for 13 || lack of prosecution or failure to comply with a court order): see also Fed. R. Civ. P. 41(b) 14 || (providing for involuntary dismissal for failure to prosecute or comply with the federal 15 or court order).

16 CONCLUSION AND ORDER

17 The Court DISMISSES this civil action in its entirety based on Plaintiff's failure to 18 || state a plausible § 1983 claim and his failure to prosecute this action. The Court DIRECTS 19 || the Clerk to enter a final judgment of dismissal and close the file. 20 IT IS SO ORDERED. 21 Dated: March 24, 2025 22 =n Yn: LAN 23 Hon. Dana M. Sabraw United States District Judge 25 26 27 28 2