

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Antonio G. Robles v. Steven Johnson, et al.

Robles v. Johnson, No. 1:22-cv-00620-KES-CDB (PC) (E.D. Cal. Oct. 16, 2025) · No. 1:22-cv-00620-KES-CDB (PC) · Decided October 17, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 ANTONIO G. ROBLES, Case No.: 1:22-cv-00620-KES-CDB (PC) 12
Plaintiff, FINDINGS AND RECOMMENDATIONS TO DISMISS ACTION FOR PLAINTIFF’S
13 v. FAILURE TO OBEY COURT ORDERS AND FAILURE TO PROSECUTE 14 STEVEN
JOHNSON, et al., 14-DAY OBJECTION PERIOD 15 Defendants. 16 17 Plaintiff Antonio G.
Robles is appearing pro se and in forma pauperis in this civil rights 18 action.

19 I. RELEVANT BACKGROUND 20 On September 18, 2025, the Court issued its Second
Screening Order. (Doc. 15.) The 21 undersigned found Plaintiff’s first amended complaint failed
to state a claim upon which relief 22 could be granted. (Id. at 4-8.) Plaintiff was granted one final
opportunity to file an amended 23 complaint and was provided the relevant legal standards.

(Id.) Plaintiff was directed to file either 24 a second amended complaint, curing the deficiencies
identified in the order, or a notice of 25 voluntary dismissal, within 21 days. (Id. at 8-9.) 26 More
than 21 days have passed, yet Plaintiff has failed to file either a second amended 27 complaint or a
notice of voluntary dismissal. 1 II. DISCUSSION 2 Applicable Legal Standards 3 The Local
Rules, corresponding with Federal Rule of Civil Procedure 11, provide, 4 “[f]ailure of counsel or
of a party to comply with these Rules or with any order of the Court may 5 be grounds for the
imposition by the Court of any and all sanctions authorized by statute or Rule 6 or within the
inherent power of the Court.” Local Rule 110. “District courts have inherent power 7 to control
their dockets” and, in exercising that power, may impose sanctions, including dismissal 8 of an
action.

Thompson v. Housing Auth., City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). 9 A court
may dismiss an action based on a party’s failure to prosecute an action, obey a court 10 order, or
comply with local rules. See, e.g., Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 11 1992)
(dismissal for failure to comply with a court order to amend a complaint); Malone v. U.S. 12
Postal Service, 833 F.2d 128, 130-31 (9th Cir.

1987) (dismissal for failure to comply with a court 13 order); Henderson v. Duncan, 779 F.2d
1421, 1424 (9th Cir. 1986) (dismissal for failure to 14 prosecute and to comply with local rules).
15 “In determining whether to dismiss an action for lack of prosecution, the district court is 16

required to weigh several factors: (1) the public's interest in expeditious resolution of litigation; 17 (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public 18 policy favoring disposition of cases on their merits; and (5) the availability of less drastic 19 sanctions." *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir.

1988) (internal quotation marks & 20 citation omitted). These factors guide a court in deciding what to do and are not conditions that 21 must be met in order for a court to take action. In *re Phenylpropanolamine (PPA) Products* 22 Liability Litigation, 460 F.3d 1217, 1226 (9th Cir. 2006) (citation omitted). 23 Analysis 24 Here, Plaintiff has failed to file a second amended complaint or a notice of voluntary 25 dismissal.

Nor has Plaintiff otherwise been in contact with the Court. Given the Court's inability 26 to communicate with Plaintiff, there are no other reasonable alternatives available to address 27 Plaintiff's failure to obey orders and failure to prosecute this action.

Thus, the first and second 1 weigh in favor of dismissal. *Carey*, 856 F.2d at 1440. 2 The third factor, risk of prejudice to defendant, also weighs in favor of dismissal since a 3 presumption of injury arises from the occurrence of unreasonable delay in prosecuting an action. 4 See *Anderson v. Air W.*, 542 F.2d 522, 524 (9th Cir. 1976).

Here, the Second Screening Order 5 directed Plaintiff to file either a second amended complaint curing the deficiencies identified in 6 the order, or to file a notice of voluntary dismissal, within 21 days. Plaintiff has taken no action 7 whatsoever.

Because Plaintiff has failed to comply with the screening order, his inaction amounts 8 to an unreasonable delay in prosecuting this case resulting in a presumption of injury. Thus, the 9 third factor also weighs in favor of dismissal. *Carey*, 856 F.2d at 1440. 10 The fourth factor usually weighs against dismissal because public policy favors 11 disposition on the merits.

Pagtalunan v. Galaza, 291 F.3d 639, 643 (9th Cir. 2002). However, 12 "this factor lends little support to a party whose responsibility it is to move a case toward 13 disposition on the merits but whose conduct impedes progress in that direction." In *re PPA*, 460 14 F.3d at 1228. Plaintiff has not moved this case forward toward disposition on the merits. He has 15 failed to comply with the Second Screening Order and has stopped communicating with the 16 Court.

Therefore, the fourth factor — the public policy favoring disposition of cases on their 17 merits — also weighs in favor of dismissal. *Carey*, 856 F.2d at 1440. 18 Finally, the Court's warning to a party that failure to obey the court's orders or rules will 19 result in dismissal satisfies the "considerations of the alternatives" requirement. *Ferdik*, 963 F.2d 20 at 1262.

Here, the Second Screening Order issued September 18, 2025, expressly warned: "If 21 Plaintiff fails to comply with this order, or the Court's First Screening Order, the Court will 22 recommend

that this action be dismissed, without prejudice, for failure to obey a court order and for failure to prosecute.” (Doc. 15 at 9, emphasis in original.) Additionally, in its order issued August 9, 2023, Plaintiff was advised: “If Plaintiff fails to comply with this Order, the Court will recommend that this action be dismissed for failure to state a claim and failure to obey a court order.” (Doc.

11 at 5, emphasis in original.) And in its First Screening Order issued April 26, 2023, the Court warned: “Plaintiff is forewarned that failure to comply with this Order will result in dismissal pursuant to Local Rule 110.” (Doc. 7 at 9.) Thus, the undersigned finds Plaintiff had adequate warning that dismissal could result from his noncompliance with this Court’s orders. Thus, the fifth factor — the availability of less drastic sanctions — weighs in favor of dismissal.

4 | *Ferdik*, 963 F.2d at 1262; *Carey*, 856 F.2d at 1440. 5 In sum, Plaintiff has failed to comply with this Court’s orders, and in doing so, has failed to prosecute this action. For the reasons set forth above, the undersigned will recommend that the action be dismissed without prejudice. 8 IW. CONCLUSION AND RECOMMENDATIONS 9 Accordingly, the Court RECOMMENDS that this action be dismissed, without prejudice, 10 | based on Plaintiff’s failure to obey Court orders and to prosecute this action.

11 These Findings and Recommendations will be submitted to the United States District Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(7). Within 14 days 13 | after being served with a copy of these Findings and Recommendations, a party may file written 14 | objections with the Court. Local Rule 304(b).

The document should be captioned, “Objections to Magistrate Judge’s Findings and Recommendations” and shall not exceed 15 pages without leave of Court and good cause shown. The Court will not consider exhibits attached to the Objections.

To the extent a party wishes to refer to any exhibit(s), the party should reference the exhibit in the record by its CM/ECF document and page number, when possible, or otherwise reference the exhibit with specificity. Any pages filed in excess of the 15-page limitation may be disregarded by the District Judge when reviewing these Findings and Recommendations under 28 U.S.C. § 636(b)(1)(C).

A party’s failure to file any objections within the specified time may result in the waiver of certain rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014). IT IS SO ORDERED. 29 Dated: _ October 16, 2025 | Writ of Habeas Corpus UNITED STATES MAGISTRATE JUDGE 27 28