

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Jayson Thorn v. Sac Jail

Thorn v. Sac Jail · No. 2:23-cv-0069-CKD P · Decided March 8, 2023

SUMMARY

The court recommends dismissal without prejudice under Federal Rule of Civil Procedure 41(b) because the plaintiff failed to submit a completed in forma pauperis application within the ordered time. The document also orders random assignment of the matter to a district judge and advises the parties regarding objections to the findings and recommendations.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 8, 2023
DOCKET	2:23-cv-0069-CKD P
DISPOSITION	other
PROCEDURAL POSTURE	A prisoner civil-rights action was referred to a magistrate judge, who issued findings and recommendations after the plaintiff failed to comply with an order requiring a completed in forma pauperis application.
PRECEDENTIAL VALUE	unpublished and nonprecedential magistrate judge findings and recommendations

TOPICS

civil procedure

PRACTICE AREAS

prisoner civil rights

federal civil procedure

QUESTIONS PRESENTED

- Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) because plaintiff failed to comply with the court's order.

HOLDINGS

1. The magistrate judge recommended that the action be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) because plaintiff failed to file the required in forma pauperis application or otherwise respond to the court's order.

KEY QUOTATIONS

- “The thirty day period has now expired, and plaintiff has not responded to the court’s order.” (at 1)
- “IT IS FURTHER RECOMMENDED that this action be dismissed without prejudice.” (at 1)

FACTUAL BACKGROUND

The court had ordered Jayson Thorn to submit a completed in forma pauperis application within thirty days. The order warned that failure to comply would lead to a recommendation that the action be dismissed. Thorn did not respond within the allotted period.

PROCEDURAL HISTORY

On January 18, 2023, the court ordered plaintiff to file a completed in forma pauperis application within thirty days and warned that noncompliance would result in a recommendation of dismissal. The deadline expired without a response. The magistrate judge recommended dismissal without prejudice and ordered the Clerk to randomly assign the matter to a district judge; the parties were permitted to file objections under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 JAYSON THORN, No. 2:23-cv-0069-CKD P 12 Plaintiff, 13 v. ORDER
AND 14 SAC JAIL, FINDINGS AND RECOMMENDATIONS 15 Defendant. 16 By an order
filed January 18, 2023, plaintiff was ordered to file a completed in forma 17 pauperis application
within thirty days and was cautioned that failure to do so would result in a 18 recommendation
that this action be dismissed.

The thirty day period has now expired, and 19 plaintiff has not responded to the court’s order. 20
Accordingly, IT IS HEREBY ORDERED that the Clerk of Court randomly assign this 21 matter to
a district court judge. 22 IT IS FURTHER RECOMMENDED that this action be dismissed
without prejudice. See 23 Fed. R. Civ. P. 41(b). 24 These findings and recommendations are

submitted to the United States District Judge 25 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).

Within fourteen days 26 after being served with these findings and recommendations, any party may file written 27 objections with the court and serve a copy on all parties. Such a document should be captioned 28 1 | “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the 2 || objections shall be served and filed within fourteen days after service of the objections.

The 3 || parties are advised that failure to file objections within the specified time may waive the right to 4 | appeal the District Court’s order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). 5 | Dated: March 7, 2023 Card ft 4 LA g. ae 6 CAROLYN K DELANEY? 7 UNITED STATES MAGISTRATE JUDGE 8 9 10 1] 12 13 12/thor0069.fifp.docx 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28