

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Oliver Thomas Miller v. Clark County

No. 2:25-cv-02009-APG-NJK, United States District Court for the District of Nevada (January 5, 2026)

SUMMARY

The United States District Court for the District of Nevada dismisses Oliver Thomas Miller’s 42 U.S.C. § 1983 action against Clark County without prejudice. The court finds that Miller failed to pay the civil filing fee or submit a complete application to proceed in forma pauperis by the court-ordered deadline, and denies his motion for appointment of counsel as moot.

CASE DETAILS

COURT	United States District Court for the District of Nevada
JURISDICTION	United States District Court for the District of Nevada
DECIDED	January 5, 2026
DOCKET	2:25-cv-02009-APG-NJK
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff brought a civil-rights action under 42 U.S.C. § 1983. After the magistrate judge ordered him to pay the filing fee or file a complete application to proceed in forma pauperis and warned that noncompliance could result in dismissal, plaintiff failed to comply. The district court dismissed the action without prejudice and denied plaintiff's motion for appointment of counsel as moot.
STANDARD OF REVIEW	The court exercised its inherent power to manage its docket and evaluated dismissal for failure to obey a court order under the five-factor framework governing such dismissals.
PRECEDENTIAL VALUE	unknown
PARTIES	Oliver Thomas Miller v. Clark County

TOPICS

- sanctions
- civil procedure
- section 1983
- prisoners rights

PRACTICE AREAS

- civil procedure
- civil rights
- prisoner civil rights
- remedies

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice because Miller failed to comply with the magistrate judge's order to pay the filing fee or file a complete in forma pauperis application.
2. Whether Miller's motion for appointment of counsel remained viable after dismissal of the action.

HOLDINGS

1. The action should be dismissed without prejudice because Miller failed to pay the \$405 filing fee or file a complete in forma pauperis application by the court-ordered deadline.
2. Miller's motion for appointment of counsel was denied as moot because the action was dismissed.

KEY QUOTATIONS

“In the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” (at 1)

“Courts “need not exhaust every sanction short of dismissal before finally dismissing a case, but must explore possible and meaningful alternatives.”” (at 2)

FACTUAL BACKGROUND

Miller filed a § 1983 civil-rights action alleging constitutional violations suffered while he was incarcerated at the Clark County Detention Center. The magistrate judge ordered him to pay the \$405 civil filing fee or file a complete in forma pauperis application by December 22, 2025, and warned that failure to comply could result in dismissal. The deadline passed without payment or a complete application.

PROCEDURAL HISTORY

On October 27, 2025, the magistrate judge ordered Miller to pay the \$405 filing fee or submit a complete in forma pauperis application by December 22, 2025. Miller did neither, and the district court applied the Ninth Circuit's dismissal factors for failure to obey a court order. The court dismissed the action without prejudice, directed the Clerk to enter judgment and close the case, and denied the motion for appointment of counsel as moot.

DISPOSITION

dismissed

CASES CITED

- Thompson v. Hous. Auth. of City of L.A., 782 F.2d 829, 831 (9th Cir. 1986)
- Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
- Malone v. U.S. Postal Serv., 833 F.2d 128, 130 (9th Cir. 1987)
- In re Phenylpropanolamine Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006)
- Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976)
- Yourish v. Cal. Amplifier, 191 F.3d 983, 992 (9th Cir. 1999)

- *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002)
- *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986)

OPINION

1 UNITED STATES DISTRICT COURT 2 DISTRICT OF NEVADA 3 OLIVER THOMAS MILLER, Case No.: 2:25-cv-02009-APG-NJK 4 Plaintiff Order 5 v. 6 CLARK COUNTY, 7 Defendant 8 9 Plaintiff Oliver Thomas Miller brings this civil-rights action under 42 U.S.C. § 1983 to 10 redress constitutional violations that he claims he suffered while incarcerated at Clark County 11 Detention Center.

ECF No. 1-1. On October 27, 2025, the magistrate judge ordered Miller to file 12 a fully complete application to proceed in forma pauperis (IFP) or pay the full \$405 filing fee for 13 a civil action on or before December 22, 2025. ECF No. 3.

The magistrate judge warned Miller 14 that the action could be dismissed if he failed to timely comply. *Id.* at 2. That deadline expired 15 without Miller paying the full filing fee or filing a complete IFP application. 16 District courts have the inherent power to control their dockets and “[i]n the exercise of 17 that power, they may impose sanctions including, where appropriate... dismissal” of a case.

18 *Thompson v. Hous. Auth. of City of L.A.*, 782 F.2d 829, 831 (9th Cir. 1986). A court may 19 dismiss an action based on a party’s failure to obey a court order or comply with local rules. See 20 *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (affirming dismissal for failure to comply 21 with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. U.S. 22 Postal Serv.*, 833 F.2d 128, 130 (9th Cir.

1987) (affirming dismissal for failure to comply with 23 court order). In determining whether to dismiss an action on one of these grounds, I must 1 consider: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to 2 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring 3 disposition of cases on their merits; and (5) the availability of less drastic alternatives.

See *In re 4 Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting *Malone*, 5 833 F.2d at 130). 6 The first two factors, the public’s interest in expeditiously resolving this litigation and the 7 court’s interest in managing its docket, weigh in favor of dismissal of Miller’s claims.

The third 8 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption 9 of injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the 10 court or prosecuting an action. See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

The 11 fourth factor—the public policy favoring disposition of cases on their merits—is greatly 12 outweighed by the factors favoring dismissal. 13 The fifth factor requires me to consider whether less drastic alternatives can be used to 14 correct the party’s failure that brought about the court’s need to consider dismissal. See *Yourish 15 v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir.

1999) (explaining that considering less drastic 16 alternatives before the party has disobeyed a court order does not satisfy this factor); accord 17 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002). Courts “need not exhaust every 18 sanction short of dismissal before finally dismissing a case, but must explore possible and 19 meaningful alternatives.” *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir.

1986). Because 20 this action cannot realistically proceed until and unless Miller either pays the \$405 filing fee or 21 files a complete IFP application, the only alternative is to enter a second order setting another 22 deadline. But the reality of repeating an ignored order is that it often only delays the inevitable 23 and squanders the court’s finite resources.

The circumstances here do not indicate that this case will be an exception. Setting a second deadline is not a meaningful alternative given these circumstances. So the fifth factor favors dismissal. 3 Having thoroughly considered these dismissal factors, I find that they weigh in favor of 4|| dismissal. 5 I THEREFORE ORDER that this action is dismissed without prejudice based on Miller’s 6|| failure to pay the \$405 filing fee or file a complete IFP application in compliance with the 7|| magistrate judge’s October 27, 2025, order.

The Clerk of Court is directed to enter judgment 8|| accordingly and close this case. If Miller wishes to pursue his claims, he must file a complaint 9) and address the matter of the filing fee in a new case. 10 I FURTHER ORDER that Miller’s motion for the appointment of counsel (ECF No. 1-2) denied as moot. 12 Dated: January 5, 2026 Chief United States District Judge 14 15 16 17 18 19 20 21 22 23