

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Gibson v. Castellanos

Gibson · No. 1:21-cv-00794 KES GSA (PC) · Decided April 9, 2025

SUMMARY

The document contains findings and recommendations by a United States Magistrate Judge in a prisoner civil-rights action under 42 U.S.C. § 1983. The magistrate judge recommends dismissal without prejudice under Federal Rule of Civil Procedure 41(b) and Local Rule 110 for failure to prosecute and failure to obey court orders. The recommendation also advises denying the defendant’s exhaustion-based partial motion for summary judgment without prejudice as moot.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Gary S. Austin
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 9, 2025
DOCKET	1:21-cv-00794 KES GSA (PC)
DISPOSITION	other
PROCEDURAL POSTURE	A magistrate judge issued findings and recommendations that the prisoner civil-rights action be dismissed without prejudice for failure to prosecute and failure to obey court orders, and that the defendant's exhaustion-based partial summary-judgment motion be denied without prejudice as moot.
STANDARD OF REVIEW	Dismissal for failure to prosecute or failure to comply with court orders is reviewed under the district court's discretionary authority, applying the five Malone factors.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- sanctions
- summary judgment
- civil procedure
- section 1983
- prisoners rights

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) and Local Rule 110 because Plaintiff failed to prosecute and failed to obey court orders.
2. Whether the defendant's exhaustion-based partial motion for summary judgment should be denied without prejudice as moot after recommending dismissal of the action.

HOLDINGS

1. A plaintiff's repeated failure to respond to a pending motion and multiple court orders, after adequate time and notice, supports dismissal without prejudice under Federal Rule of Civil Procedure 41(b) and Local Rule 110 when the Malone factors favor dismissal.
2. The defendant's exhaustion-based partial motion for summary judgment should be denied without prejudice as moot when the action itself is recommended for dismissal without prejudice for failure to prosecute and failure to obey court orders.

KEY QUOTATIONS

“A district court must weigh five factors in determining whether to dismiss a case for failure to comply with a court order: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.”” (at 3)

FACTUAL BACKGROUND

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, alleged retaliation and excessive force by correctional officers at Kern Valley State Prison. The remaining defendant filed a partial motion for summary judgment asserting failure to exhaust administrative remedies. Plaintiff did not respond to that motion, an order to show cause, or an order requiring him to file a current-address notice, and the court found that its prior mailings had not been returned as undeliverable.

PROCEDURAL HISTORY

Plaintiff filed a § 1983 action alleging First and/or Eighth Amendment retaliation and excessive-force claims. After the operative second amended complaint was screened and served, one defendant was dismissed for failure of service. The remaining defendant filed an exhaustion-based partial summary-judgment motion, but Plaintiff did not respond to that motion, an order to show cause, or an order requiring notice of his current address. The magistrate judge recommended dismissal and denial of the motion as moot, subject to objections and review by the assigned district judge.

DISPOSITION

other

CASES CITED

- Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995)
- Malone v. United States Postal Service, 833 F.2d 128, 130 (9th Cir. 1987)
- Thompson v. Housing Authority of City of Los Angeles, 782 F.2d 829 (9th Cir. 1986) (per curiam)
- Whitaker v. Superior Court of San Francisco, 514 U.S. 208, 210 (1994)
- Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014)
- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

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