

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Thomas v. Aguirre

Thomas · No. 1:24-cv-00281-KES-SKO · Decided August 1, 2025

SUMMARY

The United States Magistrate Judge recommends dismissing Edward Thomas’s 42 U.S.C. § 1983 action without prejudice for failure to obey court orders and failure to prosecute. The recommendation follows Plaintiff’s failure to file a third amended complaint or notice of voluntary dismissal after receiving extensions and warnings, and allows 14 days for objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sheila K. Oberto
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 1, 2025
DOCKET	1:24-cv-00281-KES-SKO
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal without prejudice of a prisoner civil-rights action for failure to obey court orders and failure to prosecute.
STANDARD OF REVIEW	The court evaluated dismissal under the district court's inherent authority and Federal Rule of Civil Procedure 41(b), applying the Ninth Circuit's five-factor test: the public interest in expeditious resolution, the court's need to manage its docket, prejudice to defendants, the public policy favoring disposition on the merits, and the availability of less drastic sanctions.
PRECEDENTIAL VALUE	Nonprecedential and nonfinal findings and recommendations; precedential status is unknown.
PARTIES	Edward Thomas v. J. Aguirre, et al.

TOPICS

- sanctions
- civil procedure
- prisoners rights
- section 1983

PRACTICE AREAS

Civil procedure

Prisoner civil rights

Federal courts

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for Plaintiff's failure to obey court orders.
2. Whether the action should be dismissed without prejudice for Plaintiff's failure to prosecute.
3. Whether the Ninth Circuit's five-factor dismissal test supported dismissal under the circumstances.

HOLDINGS

1. The magistrate judge recommended dismissal without prejudice because Plaintiff failed to file a third amended complaint or notice of voluntary dismissal as ordered and failed to otherwise prosecute the action.

KEY QUOTATIONS

“For the foregoing reasons, the Court RECOMMENDS that this action be DISMISSED without prejudice for Plaintiff’s failure to obey court orders and failure to prosecute.” (Conclusion and Recommendations)

“In sum, Plaintiff has failed to comply with the Court’s orders, and in doing so, has failed to prosecute this action. Whether Plaintiff has done so intentionally or mistakenly is inconsequential. It is Plaintiff’s responsibility to comply with the Court’s orders and to prosecute this action.” (Discussion)

FACTUAL BACKGROUND

Plaintiff's second amended complaint was found to violate Rule 8 and fail to state a cognizable claim. The court gave Plaintiff a final opportunity to file a third amended complaint or voluntarily dismiss the action, later extending the deadline by 60 days after denying Plaintiff's requested Rhines stay. Plaintiff did not file the required pleading or notice and did not otherwise move the case forward.

PROCEDURAL HISTORY

Plaintiff filed a second amended complaint. After screening, the court found that the complaint violated Federal Rule of Civil Procedure 8 and failed to state a cognizable claim, and granted Plaintiff one final opportunity to file a third amended complaint or a notice of voluntary dismissal. Plaintiff sought a Rhines stay, which was denied, but received a 60-day extension to amend. Plaintiff filed neither an amended complaint nor a notice of voluntary dismissal, leading the magistrate judge to recommend dismissal without prejudice, subject to a 14-day objection period and review by the assigned district judge.

DISPOSITION

other

CASES CITED

- Thompson v. Housing Auth., City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986)

- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- *Malone v. U.S. Postal Service*, 833 F.2d 128, 130-31 (9th Cir. 1987)
- *Henderson v. Duncan*, 779 F.2d 1421, 1423-24 (9th Cir. 1986)
- *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1988)
- *Anderson v. Air W.*, 542 F.2d 522, 524 (9th Cir. 1976)
- *Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th Cir. 2002)
- *In re Phenylpropanolamine (PPA) Products Liability Litigation*, 460 F.3d 1217, 1228 (9th Cir. 2006)
- *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014)

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