

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Travis Smith v. Sacramento County, et al.

Smith v. Sacramento County · No. 2:23-cv-2919-JDP (P) · Decided March 4, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends dismissing Travis Smith’s action against Sacramento County and related defendants without prejudice for failure to prosecute and failure to comply with court orders. The recommendation follows plaintiff’s failure to oppose or respond to defendants’ motion to dismiss and to comply with an order to show cause. The court also recommends denying the motion to dismiss as moot and closing the case.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                             |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                                                                                                                                                                                                                                                         |
| WRITING FOR THE COURT | Jeremy D. Peterson                                                                                                                                                                                                                                                                                                                                                          |
| JURISDICTION          | United States District Court for the Eastern District of California                                                                                                                                                                                                                                                                                                         |
| DECIDED               | March 4, 2025                                                                                                                                                                                                                                                                                                                                                               |
| DOCKET                | 2:23-cv-2919-JDP (P)                                                                                                                                                                                                                                                                                                                                                        |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                                                       |
| PROCEDURAL POSTURE    | Defendants moved to dismiss. Plaintiff failed to oppose the motion and failed to comply with a subsequent order to show cause and directive to file an opposition or statement of non-opposition. The magistrate judge issued findings and recommendations that the action be dismissed without prejudice for failure to prosecute and failure to comply with court orders. |
| STANDARD OF REVIEW    | The court balanced the five factors governing dismissal for failure to prosecute or failure to comply with court orders: the public interest in expeditious resolution, the court's need to manage its docket, prejudice to defendants, the policy favoring decisions on the merits, and the availability of less drastic alternatives.                                     |
| PRECEDENTIAL VALUE    | Nonprecedential magistrate judge findings and recommendations; not a final district court judgment in the opinion text.                                                                                                                                                                                                                                                     |

TOPICS

sanctions

civil procedure

motions to dismiss

section 1983

prisoners rights

## PRACTICE AREAS

Civil procedure

Civil rights

Prisoner civil rights

## QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for plaintiff's failure to prosecute.
2. Whether the action should be dismissed for plaintiff's failure to comply with the court's order.
3. Whether defendants' pending motion to dismiss should be denied as moot following the recommended dismissal.

## HOLDINGS

1. A court may dismiss an action when a plaintiff fails to prosecute, fails to obey a court order, or fails to comply with local rules, and the applicable factors supported dismissal without prejudice here.
2. Defendants' motion to dismiss should be denied as moot because the action should instead be dismissed without prejudice for plaintiff's noncompliance.

## KEY QUOTATIONS

*"The court has the inherent power to control its docket and may, in the exercise of that power, impose sanctions where appropriate, including dismissal."* (at 1)

*"In recommending that this action be dismissed for failure to prosecute and failure to comply with court orders, I have considered "(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 alternatives.""* (at 2)

*"Accordingly, I find that the balance of factors weighs in favor of dismissal."* (at 2)

## FACTUAL BACKGROUND

Defendants filed a motion to dismiss, but plaintiff did not timely file an opposition or statement of non-opposition. The court then ordered plaintiff to show cause and respond to the motion within twenty-one days, warning that failure to comply would result in dismissal. Plaintiff failed to respond to both the motion and the order.

## PROCEDURAL HISTORY

Defendants filed a motion to dismiss on December 6, 2024. After plaintiff failed to respond, the court ordered him on January 30, 2025, to show cause and file an opposition or statement of non-opposition within twenty-one days, expressly warning that noncompliance could result in dismissal. Plaintiff did not respond, and the magistrate judge recommended dismissal without prejudice, denial of the motion to dismiss as moot, and closure of the case, subject to objections under 28 U.S.C. § 636(b)(1).

**DISPOSITION**

other

**CASES CITED**

- Bautista v. Los Angeles County, 216 F.3d 837, 841 (9th Cir. 2000)
- Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
- Malone v. U.S. Postal Service, 833 F.2d 128, 130, 132-33 (9th Cir. 1987)
- Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Yist, 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 TRAVIS SMITH, Case No. 2:23-cv-2919-JDP (P) 12 Plaintiff, 13 v.  
ORDER; FINDINGS AND RECOMMENDATIONS 14 SACRAMENTO COUNTY, et al., 15  
Defendants. 16 17 On December 6, 2024, defendants filed a motion to dismiss. ECF No. 14.  
Plaintiff failed 18 to timely file either an opposition or a statement of non-opposition to the  
motion.

Therefore, on 19 January 30, 2025, I ordered plaintiff (1) to show cause why this action should not  
be dismissed 20 for his failure to prosecute and (2) to file an opposition or statement of non-  
opposition within 21 twenty-one days. ECF No. 16. I also warned plaintiff that his failure to  
respond to the order 22 would constitute a failure to comply with a court order and would result in  
dismissal of this case.

23 Plaintiff has not responded to the order to show cause, and the time to do so has passed. 24  
Accordingly, dismissal is warranted. 25 The court has the inherent power to control its docket and  
may, in the exercise of that 26 power, impose sanctions where appropriate, including dismissal.  
Bautista v. Los Angeles Cnty., 27 216 F.3d 837, 841 (9th Cir. 2000); see Local Rule 110 (“Failure  
of counsel or of a party to 28 comply with these Rules or with any order of the Court may be  
grounds for imposition by the 1 Court of any and all sanctions... within the inherent power of the  
Court.”).

2 A court may dismiss an action based on a party’s failure to prosecute an action, failure to 3 obey  
a court order, or failure to comply with local rules. See Ghazali v. Moran, 46 F.3d 52, 53-54 4 (9th  
Cir. 1995) (dismissal for noncompliance with local rule); Ferdik v. Bonzelet, 963 F.2d 1258, 5

1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order to file an amended 6 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir.

1988) (dismissal for failure to 7 comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. 8 U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court 9 order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of 10 prosecution and failure to comply with local rules).

11 In recommending that this action be dismissed for failure to prosecute and failure to 12 comply with court orders, I have considered “(1) the public’s interest in expeditious resolution of 13 litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; 14 (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less 15 drastic alternatives.” *Ferdik*, 963 F.2d at 1260-61 (citation omitted).

16 Plaintiff has failed to respond to both defendants’ motion and a court order directing him 17 to file an opposition or statement of non-opposition to defendants’ motion. See ECF Nos. 14 & 18 16. Therefore, the public interest in expeditious resolution of litigation, the court’s need to 19 manage its docket, and the risk of prejudice to the defendant all cut in favor of the sanction of 20 dismissal.

My warning to plaintiff that failure to obey court orders will result in dismissal 21 satisfies the “considerations of the alternatives” requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 22 833 at 132-33; *Henderson*, 779 F.2d at 1424.1 Plaintiff had adequate warning that dismissal 23 could result from his noncompliance.

Accordingly, I find that the balance of factors weighs in 24 favor of dismissal. 25 Accordingly, it is hereby ORDERED that the Clerk of Court randomly assign a district 26 judge to this matter. 27 1 The January 30 order expressly warned plaintiff that his failure to comply with court 28 orders would result in dismissal. ECF No. 16. 1 Further, it is hereby RECOMMENDED that: 2 1.

This action be dismissed without prejudice for failure to prosecute and failure to 3 || comply with court orders for the reasons set forth in the January 30, 2025 order. 4 2. Defendants’ motion to dismiss, ECF No. 14, be denied as moot. 5 3.

The Clerk of Court be directed to close the case. 6 These findings and recommendations are submitted to the United States District Judge 7 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of 8 || service of these findings and recommendations, any party may file written objections with the 9 || court and serve a copy on all parties.

Any such document should be captioned “Objections to 10 | Magistrate Judge’s Findings and Recommendations,” and any response shall be served and filed 11 | within fourteen days of service of the objections. The parties are advised that failure to file 12 || objections within the specified

time may waive the right to appeal the District Court's order. See 13 || Turner v. Duncan, 158 F.3d 449, 455 (9th Cir.

1998); Martinez v. Yist, 951 F.2d 1153 (9th Cir. 14 | 1991). 15 16 IT IS SO ORDERED. 17 ( 1 Sy  
— Dated: \_ March 3, 2025 a—— 18 JEREMY D. PETERSON 19 UNITED STATES  
MAGISTRATE JUDGE 20 21 22 23 24 25 26 27 28