

**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.

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

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