

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Jeremy Xavier Sanchez v. Kern County Sheriff's Department

Sanchez v. Kern County Sheriff's Department · No. 1:25-cv-01158-BAM (PC) · Decided October 28, 2025

OPINION

Jeremy Xavier Sanchez v. Kern County Sheriff's Department

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 JEREMY XAVIER SANCHEZ, Case No. 1:25-cv-01158-BAM (PC) 12 Plaintiff, ORDER
DIRECTING CLERK OF COURT TO

RANDOMLY ASSIGN DISTRICT JUDGE

13 v.

FINDINGS AND RECOMMENDATIONS TO

14 KERN COUNTY SHERIFF'S DISMISS ACTION WITHOUT PREJUDICE

DEPARTMENT, FOR FAILURE TO OBEY COURT ORDER

15 AND FOR FAILURE TO PROSECUTE

Defendant. 16 (ECF No. 4) 17 I. Background 18 Plaintiff Jeremy Xavier Sanchez ("Plaintiff") is a
county jail inmate proceeding pro se in 19 this civil rights action pursuant to 42 U.S.C. § 1983.
Plaintiff initiated this action on September 20 8, 2025, together with a motion to proceed in forma
pauperis. (ECF Nos. 1, 2.) 21 On September 10, 2025, the Court determined that Plaintiff's
application to proceed in 22 forma pauperis was incomplete because Plaintiff failed to submit a
certified copy of his trust 23 account statement and did not have an authorized officer from his
institution of incarceration 24 complete the certificate portion of the form. (ECF No. 4.) The Court
therefore ordered Plaintiff to 25 file a certified copy of his inmate trust account statement for the
past six months or, in the 26 alternative, pay the \$405.00 filing fee for this action within thirty
days of service. (Id. at 1.) The 27 Court warned Plaintiff that the failure to comply with the order
would result in dismissal of this 28 action without prejudice. (Id. at 2.) Plaintiff has failed to file a
certified copy of his inmate trust 1 account statement or pay the filing fee, and the deadline in
which to do so has passed. 2 II. Failure to Prosecute and Failure to Obey a Court Order 3 A. Legal
Standard 4 Local Rule 110 provides that "[f]ailure . . . of a party to comply with these Rules or
with 5 any order of the Court may be grounds for imposition by the Court of any and all sanctions
. . . 6 within the inherent power of the Court." District courts have the inherent power to control
their 7 dockets and "[i]n the exercise of that power they may impose sanctions including, where 8

appropriate, . . . dismissal.” *Thompson v. Hous. Auth.*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, 10 failure to obey a court order, or failure to comply with local rules. See, e.g., *Ghazali v. Moran*, 46 11 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 12 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring 13 amendment of complaint); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130–33 (9th Cir. 1987) 14 (dismissal for failure to comply with court order). 15 In determining whether to dismiss an action, the Court must consider several factors: (1) 16 the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its 17 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of 18 cases on their merits; and (5) the availability of less drastic sanctions. *Henderson v. Duncan*, 779 19 F.2d 1421, 1423 (9th Cir. 1986); *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1988). 20 B. Discussion 21 Here, Plaintiff’s trust account statement or payment of the filing fee is overdue, and he has 22 failed to comply the with the Court’s order. The Court cannot effectively manage its docket if 23 Plaintiff ceases litigating his case. Thus, the Court finds that both the first and second factors 24 weigh in favor of dismissal. 25 The third factor, risk of prejudice to defendant, also weighs in favor of dismissal, since a 26 presumption of injury arises from the occurrence of unreasonable delay in prosecuting an action. 27 *Anderson v. Air W.*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor usually weighs against 28 dismissal because public policy favors disposition on the merits. *Pagtalunan v. Galaza*, 291 F.3d 1 639, 643 (9th Cir. 2002). However, “this factor lends little support to a party whose 2 responsibility it is to move a case toward disposition on the merits but whose conduct impedes 3 progress in that direction,” which is the case here. In re Phenylpropanolamine (PPA) Products 4 Liability Litigation, 460 F.3d 1217, 1228 (9th Cir. 2006) (citation omitted). 5 Finally, the Court’s warning to a party that failure to obey the court’s order will result in 6 dismissal satisfies the “considerations of the alternatives” requirement. *Ferdik*, 963 F.2d at 1262; 7 *Malone*, 833 at 132–33; *Henderson*, 779 F.2d at 1424. The Court’s order issued on September 8 10, 2025, warned Plaintiff that his failure to file a certified copy of his trust account statement or 9 to pay the filing fee would result in dismissal of this action. (ECF No. 4 at 2.) Thus, Plaintiff had 10 adequate warning that dismissal could result from his noncompliance. 11 Additionally, at this stage in the proceedings there is little available to the Court that 12 would constitute a satisfactory lesser sanction while protecting the Court from further 13 unnecessary expenditure of its scarce resources. As Plaintiff has applied to proceed in forma 14 pauperis and has failed to pay the filing fee, monetary sanctions likely would be of little use. 15 Further, the preclusion of evidence or witnesses is likely to have no effect given that Plaintiff has 16 ceased litigating his case. 17 III. Conclusion and Recommendation 18 Accordingly, the Clerk of the Court is HEREBY DIRECTED to randomly assign a 19 District Judge to this action. 20 Further, the Court finds that dismissal is the appropriate sanction and HEREBY 21 RECOMMENDS that this action be dismissed, without prejudice, for failure to obey a court order 22 and for Plaintiff’s

failure to prosecute this action. 23 These Findings and Recommendation will be submitted to the United States District Judge 24 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen 25 (14) days after being served with these Findings and Recommendation, Plaintiff may file written 26 objections with the Court. The document should be captioned “Objections to Magistrate Judge’s 27 Findings and Recommendation.” Objections, if any, shall not exceed fifteen (15) pages or 28 include exhibits. Exhibits may be referenced by document and page number if already in 1 the record before the Court. Any pages filed in excess of the 15-page limit may not be 2 considered. Plaintiff is advised that failure to file objections within the specified time may result 3 in the waiver of the “right to challenge the magistrate’s factual findings” on appeal. *Wilkerson v. 4 Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 5 (9th Cir. 1991)). 6 IT IS SO ORDERED. 7 8 Dated: October 27, 2025 /s/ Barbara A. McAuliffe _

UNITED STATES MAGISTRATE JUDGE

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