

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Gallegos v. Ebert

Gallegos · No. 2:24-cv-1676-DJC-JDP (P) · Decided July 7, 2025

SUMMARY

The United States District Court for the Eastern District of California issued an order to show cause in Gallegos v. Ebert. The court directed the plaintiff to explain within twenty-one days why the action should not be dismissed for failure to prosecute and failure to oppose or state non-opposition to the defendant’s motion to dismiss.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
DECIDED	July 7, 2025
DOCKET	2:24-cv-1676-DJC-JDP (P)
DISPOSITION	other
PROCEDURAL POSTURE	After Defendant B. Ebert filed a motion to dismiss, Plaintiff Benjamin Robert Gallegos failed to file an opposition or statement of non-opposition. The court issued an order to show cause why the action should not be dismissed for failure to prosecute and failure to comply with local rules.
PRECEDENTIAL VALUE	Unpublished district court order; limited precedential value

TOPICS

- sanctions
- motions to dismiss
- civil procedure

PRACTICE AREAS

- Civil procedure
- Prisoner civil rights

QUESTIONS PRESENTED

- Whether Plaintiff should be required to show cause why the action should not be dismissed for failure to prosecute and failure to comply with local rules after failing to respond to Defendant's motion to dismiss.

2. Whether Plaintiff should be directed to file an opposition or statement of non-opposition to Defendant's motion to dismiss.

HOLDINGS

1. A district court may impose sanctions, including dismissal, for failure to comply with court orders or local rules, subject to the circumstances governing involuntary dismissal.

KEY QUOTATIONS

“Involuntary dismissal is a harsh penalty, but a district court has a duty to administer justice expeditiously and avoid needless burden for the parties.” (1)

“Plaintiff’s failure to respond to this order will constitute a failure to comply with a court order and will result in a recommendation that this action be dismissed.” (1-2)

FACTUAL BACKGROUND

Defendant filed a motion to dismiss on May 28, 2025. Plaintiff did not file a response. The court determined that Plaintiff's failure to respond warranted an opportunity to show cause before the court considered recommending dismissal for failure to prosecute and failure to comply with local rules.

PROCEDURAL HISTORY

Defendant filed a motion to dismiss on May 28, 2025. Plaintiff had not responded by the date of the order. The court granted Plaintiff twenty-one days to explain why the case should not be dismissed and to file an opposition or statement of non-opposition; no dismissal was ordered in this document.

DISPOSITION

other

CASES CITED

- Hells Canyon Pres. Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005)
- Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
- Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002)

OPINION

(PC) Gallegos v. Ebert

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 BENJAMIN ROBERT GALLEGOS, Case No. 2:24-cv-1676-DJC-JDP (P) 12 Plaintiff,

13 v. ORDER TO SHOW CAUSE

14 B. EBERT,

15 Defendant. 16

17 On May 28, 2025, defendant filed a motion to dismiss. ECF No. 27. To date, plaintiff has 18
not filed a response. 19 To manage its docket effectively, the court requires litigants to meet
certain deadlines. 20 The court may impose sanctions, including dismissing a case, for failure to
comply with its orders 21 or local rules. See Fed. R. Civ. P. 41(b); E.D. Cal. L.R. 110; Hells
Canyon Pres. Council v. U.S. 22 Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005); Carey v. King,
856 F.2d 1439, 1440-41 (9th Cir. 23 1988). Involuntary dismissal is a harsh penalty, but a district
court has a duty to administer 24 justice expeditiously and avoid needless burden for the parties.
See Pagtalunan v. Galaza, 291 25 F.3d 639, 642 (9th Cir. 2002); Fed. R. Civ. P. 1. 26 I will give
plaintiff a chance to explain why the court should not dismiss the case for his 27 failure to file an
opposition or statement of non-opposition to defendant's motion. Plaintiff's 28 failure to respond
to this order will constitute a failure to comply with a court order and will result 1 | in
arecommendation that this action be dismissed. Accordingly, plaintiff is ordered to show 2 | cause
within twenty-one days why this case should not be dismissed for failure to prosecute and 3 |
failure to comply with local rules. Should plaintiff wish to continue with this lawsuit, he shall 4 |
file, within twenty-one days, an opposition or statement of non-opposition to defendant's motion.
5 6 IT IS SO ORDERED. Dated: _ July 7, 2025 q——

8 JEREMY D. PETERSON

9 UNITED STATES MAGISTRATE JUDGE

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