

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Bernard May v. Clark County

May v. Clark County · No. 2:25-cv-01673-CDS-MDC · Decided December 23, 2025

SUMMARY

The United States District Court for the District of Nevada accepts a magistrate judge’s report and recommendation and dismisses Bernard May’s civil action against Clark County without prejudice. The dismissal followed May’s failure to submit a compliant prisoner in forma pauperis application, provide the required trust-account statement, pay the filing fee, or object to the report and recommendation. The court relied on Federal Rule of Civil Procedure 41(b) and applicable Ninth Circuit precedent.

CASE DETAILS

COURT	United States District Court for the District of Nevada
JURISDICTION	United States District Court for the District of Nevada
DECIDED	December 23, 2025
DOCKET	2:25-cv-01673-CDS-MDC
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's report and recommendation recommending dismissal of an inmate's civil action for failure to comply with an order requiring submission of a proper prisoner in forma pauperis application and trust-account statement or payment of the filing fee.
STANDARD OF REVIEW	When no specific written objections are filed to a magistrate judge's report and recommendation, no review is required; the court nevertheless accepted and adopted the report and recommendation in full. Dismissal for failure to comply with a court order is authorized under Federal Rule of Civil Procedure 41(b).
PRECEDENTIAL VALUE	unpublished district court order; precedential status unknown
PARTIES	Bernard May v. Clark County

TOPICS

- civil procedure
- prisoners rights
- motions to dismiss

PRACTICE AREAS

civil procedure

prisoner civil rights

QUESTIONS PRESENTED

1. Whether the district court was required to review the magistrate judge's report and recommendation when May filed no objections.
2. Whether dismissal without prejudice was proper because May failed to comply with the order requiring a proper prisoner in forma pauperis application, trust-account statement, or payment of the filing fee.

HOLDINGS

1. No review of the magistrate judge's report and recommendation was required because May filed no specific written objections and did not request additional time.
2. Dismissal without prejudice was proper because May failed to comply with the order requiring him to submit a proper prisoner IFP application and certified trust-account statement or pay the filing fee.

KEY QUOTATIONS

“no review is required of a magistrate judge’s report and recommendation unless objections are filed.” (at 1)

“A party’s failure to comply with a court order constitutes grounds for dismissal under Federal Rule of Civil Procedure 41(b).” (at 2)

FACTUAL BACKGROUND

Bernard May, an inmate in Nevada Department of Corrections custody, filed a civil action against Clark County with an application to proceed in forma pauperis. After the magistrate judge denied the application, May was ordered to submit the proper prisoner IFP form and a certified six-month trust-account statement or pay the filing fee. May missed the deadline, did not submit the required materials or payment, and did not object to the resulting report and recommendation.

PROCEDURAL HISTORY

May filed a complaint and an application to proceed in forma pauperis. The magistrate judge denied the application and ordered May to submit the court-approved prisoner IFP form and trust-account statement or pay the filing fee by November 3, 2025, warning that noncompliance would result in dismissal without prejudice. May did neither and did not object to the magistrate judge's report and recommendation by the December 17, 2025 deadline. The district court accepted the report and recommendation in full and dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- Schmidt v. Johnstone, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003)
- Thomas v. Arn, 474 U.S. 140, 150 (1985)
- United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003)
- Malone v. United States Postal Service, 833 F.2d 128, 130 (9th Cir. 1987)
- Ferdik v. Bonzelet, 963 F.2d 1258

OPINION

1 UNITED STATES DISTRICT COURT DISTRICT OF NEVADA 2 3 Bernard May, Case No. 2:25-cv-01673-CDS-MDC 4 Plaintiff Order Accepting Magistrate Judge's Report and Recommendation and 5 v. Dismissing Case 6 Clark County, 7 Defendant [ECF No. 4] 8 9 Plaintiff Bernard May, an inmate in the custody of the Nevada Department of 10 Corrections, commenced this civil action against Clark County by submitting an application to 11 proceed in forma pauperis (IFP) alongside his complaint.

ECF Nos. 1, 1-1. On October 2, 2025, 12 United States Magistrate Judge Maximiliano D. Couvillier denied May's IFP application and 13 ordered him to either submit the court approved prisoner IFP form and his trust fund account 14 statement or pay the filing fee no later than November 3, 2025. Order, ECF No. 3. May was 15 warned that failure to comply would result in dismissal without prejudice.

Id. at 3. 16 The November 3 deadline passed, and May had neither paid the filing fee nor completed 17 a prisoner IFP application. So Judge Couvillier issued a report and recommendation (R&R) that 18 I dismiss May's case for his failure to comply with the court's order. R&R, ECF No. 4. May had 19 until December 17, 2025, to file any specific, written objections to the magistrate judge's R&R.

20 Id. at 3 (citing Local Rule IB 3-2 (stating that parties wishing to object to the findings and 21 recommendations must file specific written objections within fourteen days)); see also 28 U.S.C. 22 § 636(b)(1)(C) (same). That deadline passed, and May did not object or request more time to do 23 so.

The law is clear that "no review is required of a magistrate judge's report and 24 recommendation unless objections are filed." Schmidt v. Johnstone, 263 F. Supp. 2d 1219, 1226 (D. 25 Ariz. 2003); see also Thomas v. Arn, 474 U.S. 140, 150 (1985); United States v. Reyna-Tapia, 328 F.3d 26 1114, 1121 (9th Cir. 2003). 1 To begin an action without prepaying fees and costs, the person must demonstrate 2|| poverty through an IFP application.

A prisoner's IFP application must be submitted on the appropriate Court form and include the following specific financial information: (1) a certified 4|| copy of the prisoner's account statement for the six-month period before filing, (2) a financial 5}|| certificate signed by the prisoner and an

authorized prison official, and (3) the prisoner's financial acknowledgement confirming under the penalty of perjury that the financial information is true.

28 U.S.C. § 1915(a)(1), (2). Here, May did not use the appropriate form or include a certified copy of his trust account statement for the six-month period immediately preceding the filing of his complaint. Given May's failure to comply with the court's order, Judge Couvillier considered the dismissal factors discussed in *Malone v. United States Postal Service* and found that they weighed in favor of dismissal.

ECF No. 4 at 2-3 (citing 833 F.2d 128, 130 (9th Cir. 1987)). I agree. A party's failure to comply with a court order constitutes grounds for dismissal under Federal Rule of Civil Procedure 41(b). See also *Ferdik v. Bonzelet*, 963 F.2d 1258, (9th Cir. 1992) ("[T]he district court may dismiss an action for failure to comply with any order of the court.").

I therefore accept the RGR in its entirety and dismiss this action. Conclusion IT IS HEREBY ORDERED that the magistrate judge's report and recommendation [ECF No. 4] is accepted and adopted in full. This case is dismissed without prejudice. The Clerk of Court is kindly instructed to close the case. Dated: December 23, 2025 Lf Cofeves Di 23 24 25 26