

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Marco Wayne Hall v. LaSalle Corrections West, LLC, et al.

Hall · No. CV-24-02107-PHX-SMM (MTM) · Decided January 14, 2026

SUMMARY

The court recommends dismissing Plaintiff Marco Wayne Hall’s claims against Doe Defendants 1–6 without prejudice under Federal Rule of Civil Procedure 41(b). The recommendation is based on Plaintiff’s failure to comply with orders requiring him to identify the Doe Defendants and respond to an order to show cause.

CASE DETAILS

COURT	United States District Court for the District of Arizona
JURISDICTION	United States District Court for the District of Arizona
DECIDED	January 14, 2026
DOCKET	CV-24-02107-PHX-SMM (MTM)
DISPOSITION	other
PROCEDURAL POSTURE	Report and Recommendation recommending dismissal without prejudice of Plaintiff's claims against Defendants Does 1-6 for failure to comply with court orders and failure to prosecute.
STANDARD OF REVIEW	The Court applied the five-factor Ninth Circuit test for dismissal for failure to prosecute, weighing the public interest in expeditious resolution, docket management, prejudice to defendants, the policy favoring decisions on the merits, and the availability of less drastic sanctions.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Marco Wayne Hall v. LaSalle Corrections West, LLC, Defendants Does 1-6

TOPICS

- sanctions
- civil procedure
- civil rights
- prisoners rights
- pleadings

PRACTICE AREAS

- civil procedure
- civil rights
- prisoner civil rights

QUESTIONS PRESENTED

1. Whether Plaintiff's claims against Defendants Does 1-6 should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) for failure to comply with court orders and failure to prosecute.
2. Whether dismissal with prejudice would be warranted after Plaintiff failed to identify and substitute the Doe Defendants.

HOLDINGS

1. The Court recommended dismissal without prejudice of Plaintiff's claims against Defendants Does 1-6 under Federal Rule of Civil Procedure 41(b) because Plaintiff failed to identify and substitute the Doe Defendants and failed to respond to the order to show cause.
2. Dismissal with prejudice would be unnecessarily harsh under the circumstances; the recommended dismissal should be without prejudice.

KEY QUOTATIONS

“In Link v. Wabash Railroad Co., 370 U.S. 626, 629-31 (1962), the Supreme Court recognized that a federal district court has the inherent power to dismiss a case sua sponte for failure to prosecute.” (Section III)

“In determining whether Plaintiff’s failure to prosecute warrants dismissal of the case, the Court must weigh the following five factors: “(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 sanctions.”” (Section III)

FACTUAL BACKGROUND

Marco Wayne Hall, proceeding pro se and in forma pauperis, filed a civil-rights action concerning events that occurred while he was confined at the San Luis Regional Detention Center. His Second Amended Complaint named Defendants Does 1-6, and the Court gave him 120 days to discover their identities and file a notice of substitution. He failed to do so and also failed to respond to an order to show cause why the claims against the Doe Defendants should not be dismissed.

PROCEDURAL HISTORY

Plaintiff filed a civil-rights Second Amended Complaint concerning events at the San Luis Regional Detention Center. After screening, the Court ordered Plaintiff to identify and substitute the Doe Defendants within 120 days. Plaintiff failed to file the required notice of substitution and did not respond to an order to show cause, prompting this Report and Recommendation.

DISPOSITION

other

CASES CITED

- Link v. Wabash Railroad Co., 370 U.S. 626, 629-31, 633 (1962)

- Carey v. King, 856 F.2d 1439, 1440 (9th Cir. 1988)
- Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 1986)
- Wanderer v. Johnson, 910 F.2d 652, 656 (9th Cir. 1990)
- United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA
 Marco Wayne Hall, NO. CV-24-02107-PHX-SMM (MTM) Plaintiff, ORDER v. 12
 LaSalle Corrections West, LLC, et al., 13 Defendants. 14 TO THE HONORABLE STEPHEN
 M. McNAMEE, SENIOR UNITED STATES DISTRICT JUDGE: 17 I. Summary of
 Conclusion 18 This matter is before the Court on its own review.

Plaintiff failed to comply with the Court's Order and file a "Notice of Substitution" providing the actual names of the Defendants Does 1-6, and the time for doing so has expired. Accordingly, the Court will recommend that Plaintiff's claims against these Defendants be dismissed without prejudice under Rule 41(b) of the Federal Rules of Civil Procedure.

II. Background Self-represented Plaintiff Marco Wayne Hall, who is proceeding in forma pauperis and confined in the Federal Correctional Institution-Butner, in Butner, North Carolina, filed a civil rights Second Amended Complaint regarding events that took place while he was confined in the San Luis Regional Detention Center in San Luis, Arizona.

(Doc. 11.) On August 21, 2025, the Court screened the matter and ordered Defendants to answer Counts 1 Three of the Second Amended Complaint and dismissed the remaining claims without prejudice. (Doc. 13.) Plaintiff named several Doe Defendants in his complaint.

In its screening order, the Court also stated, "Plaintiff has 120 days from the filing date of this Order in which to discover, by subpoena or otherwise, the identity of one or more of the Defendants Does 1-6, and to file a 'notice of substitution' for one or more of the Doe Defendants." (Id.)

Although counsel has filed a notice of appearance on behalf of every Defendant – including the Doe Defendants – the Doe Defendants still remain anonymous as Plaintiff has not filed a notice of substitution.¹ Accordingly, on December 29, 2025, the Court issued an Order requiring Plaintiff to show cause why this matter should not be dismissed as to the Doe Defendants for failure to comply with the Court's Order and provide their actual names.

(Doc. 31.) Plaintiff failed to comply and the time for doing so has expired. III. Discussion Plaintiff's action against the Defendants Does 1-6 may be dismissed under Rule 41(b) of the Federal Rules of Civil Procedure, for failure to comply with this Court's Orders. Rule 41(b) of the Federal Rules of Civil Procedure provides "[i]f the plaintiff fails to comply with these rules

or any order of court, a defendant may move to dismiss the 18 action or any claim against it.” In *Link v. Wabash Railroad Co.*, 370 U.S. 626, 629-31 19 (1962), the Supreme Court recognized that a federal district court has the inherent power 20 to dismiss a case sua sponte for failure to prosecute.

Moreover, in appropriate 21 circumstances, the Court may dismiss a complaint for failure to prosecute even without 22 notice or hearing. See *id.* at 633. 23 24 25 1 On December 22, 2025, counsel for Defendants filed a Motion to Dismiss Defendants Does 1-6. (Doc. 30.)

In his Motion counsel states, in pertinent part, “[u]ndersigned counsel, 26 out of an abundance of caution, filed a Notice of Appearance on behalf of the John Doe 27 Defendants #1-6, on October 13, 2025 (Doc. 15), in the event the identity of any John Doe Defendant was ascertained by Plaintiff prior to undersigned counsel filing his Notice of 28 Appearance, and to assure no John Doe #1-6 Defendant was defaulted in this matter.” (*Id.*)

1 In determining whether Plaintiff’s failure to prosecute warrants dismissal of the 2 case, the Court must weigh the following five factors: “(1) the public’s interest in 3 expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk 4 of prejudice to the defendants; (4) the public policy favoring disposition of cases on their 5 merits; and (5) the availability of less drastic sanctions.” *Carey v. King*, 856 F.2d 1439, 6 1440 (9th Cir.

1988) (quoting *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986)). 7 “The first two of these factors favor the imposition of sanctions in most cases, while the 8 fourth factor cuts against a default or dismissal sanction.

Thus the key factors are prejudice 9 and availability of lesser sanctions.” *Wanderer v. Johnson*, 910 F.2d 652, 656 (9th Cir. 10 1990). 11 Here, the first, second, and third factors favor dismissal of this case as to these 12 Defendants. Plaintiff’s failure to file a notice of substitution providing the actual identity 13 of Does 1-6 as directed, prevents the case from proceeding against them in the foreseeable 14 future.

The fourth factor, as always, weighs against dismissal. The fifth factor requires the 15 Court to consider whether a less drastic alternative is available. The Court has already 16 ordered Plaintiff to show cause why this matter should not be dismissed and Plaintiff has 17 not responded. 18 The Court finds that only one less drastic sanction is realistically available.

Rule 19 41(b) provides that a dismissal for failure to prosecute operates as an adjudication upon the 20 merits “[u]nless the dismissal order states otherwise.” In the instant case, the Court finds 21 that a dismissal with prejudice would be unnecessarily harsh.

Therefore, the Court will 22 recommend dismissal of this action without prejudice as to Defendants Does 1-6 pursuant 23 to Rule 41(b) of the Federal Rules of Civil Procedure. 24

Accordingly, 25 IT IS RECOMMENDED that Plaintiff's Second Amended Complaint (Doc. 11) 26 be dismissed without prejudice as to Defendants Does 1-6 under Fed. R. Civ. P. 41(b). 27 This recommendation is not an order that is immediately appealable to the Ninth 28 Circuit Court of Appeals.

Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of || Appellate Procedure, should not be filed until entry of the district court's judgment. The 2|| parties shall have 14 days from the date of service of a copy of this Report and 3 || Recommendation within which to file specific written objections with the Court. See 28 U.S.C. § 636(b)(1); Fed.

R. Civ. P. 6(a), 6(b) and 72. Thereafter, the parties have 14 days 5 || within which to file a response to the objections. 6 Failure to timely file objections to the Magistrate Judge's Report and || Recommendation may result in the acceptance of the Report and Recommendation by the 8 || district court without further review. See *United States v. Reyna-Tapia*, 328 F.3d 1114.

1121 (9th Cir. 2003). Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to appellate review of the 11 || findings of fact in an order of judgment entered pursuant to the Magistrate Judge's Report and Recommendation. See Fed. R. Civ. P. 72. 13 Dated this 14th day of January, 2026.

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