

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

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 16 DISTRICT JUDGE: 17 I. Summary of
Conclusion 18 This matter is before the Court on its own review.

Plaintiff failed to comply with the 19 Court’s Order and file a “Notice of Substitution” providing
the actual names of the 20 Defendants Does 1-6, and the time for doing so has expired.
Accordingly, the Court will 21 recommend that Plaintiff’s claims against these Defendants be
dismissed without prejudice 22 under Rule 41(b) of the Federal Rules of Civil Procedure.

23 II. Background 24 Self-represented Plaintiff Marco Wayne Hall, who is proceeding in forma
pauperis 25 and confined in the Federal Correctional Institution-Butner, in Butner, North Carolina,
filed 26 a civil rights Second Amended Complaint regarding events that took place while he was
27 confined in the San Luis Regional Detention Center in San Luis, Arizona.

(Doc. 11.) On 28 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 2 prejudice. (Doc. 13.) Plaintiff named several Doe Defendants in his complaint.

In its 3 screening order, the Court also stated, “Plaintiff has 120 days from the filing date of this 4
Order in which to discover, by subpoena or otherwise, the identity of one or more of the 5
Defendants Does 1-6, and to file a ‘notice of substitution’ for one or more of the Doe 6
Defendants.” (Id.)

Although counsel has filed a notice of appearance on behalf of every 7 Defendant – including the
Doe Defendants – the Doe Defendants still remain anonymous 8 as Plaintiff has not filed a notice
of substitution.¹ 9 Accordingly, on December 29, 2025, the Court issued an Order requiring
Plaintiff to 10 show cause why this matter should not be dismissed as to the Doe Defendants for
failure 11 comply with the Court’s Order and provide their actual names.

(Doc. 31.) Plaintiff failed 12 to comply and the time for doing so has expired. 13 III. Discussion
14 Plaintiff’s action against the Defendants Does 1-6 may be dismissed under Rule 15 41(b) of the
Federal Rules of Civil Procedure, for failure to comply with this Court’s 16 Orders. Rule 41(b) of
the Federal Rules of Civil Procedure provides “[i]f the plaintiff fails 17 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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