

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

Ryan Sullivan v. CDCR, et al.

Sullivan · No. 1:24-cv-00790-BAM (PC) · Decided January 13, 2026

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 RYAN SULLIVAN, Case No. 1:24-cv-00790-BAM (PC) 12 Plaintiff,
ORDER DIRECTING CLERK OF COURT TO RANDOMLY ASSIGN DISTRICT JUDGE 13 v.
FINDINGS AND RECOMMENDATIONS 14 CDCR, et al., REGARDING DISMISSAL OF
ACTION FOR FAILURE TO PROSECUTE 15 Defendants. FOURTEEN (14) DAY DEADLINE
16 17 I. Background 18 Plaintiff Ryan Sullivan (“Plaintiff”) is a state prisoner proceeding pro se
and in forma 19 pauperis in this civil rights action under 42 U.S.C. § 1983.

20 On November 13, 2025, the Court screened the complaint and found that it stated a 21
cognizable claim against Defendant Degough, in his individual capacity, for deliberate 22
indifference to conditions of confinement in violation of the Eighth Amendment and for 23
negligence. (ECF No. 7.)

However, Plaintiff’s complaint failed to state any other cognizable 24 claims for relief against any
other defendant. (Id.) The Court granted Plaintiff leave to file a first 25 amended complaint or a
notice that he did not wish to file a first amended complaint and was 26 willing to proceed only on
his claims against Defendant Degough within thirty days. (Id.)

27 Plaintiff was warned that failure to comply with the Court’s order would result in a 28
recommendation for dismissal of this action, without prejudice, for failure to obey a court order 1
and failure to prosecute. (Id.)

The screening was served on Plaintiff at his current address of 2 record at Avenal State Prison in
Avenal, California. On December 2, 2025, the Court’s order was 3 returned as “Undeliverable,
Return to Sender, Parolled [sic].” (See Docket.) 4 The deadline for Plaintiff to respond to this
Court’s order has now expired, and Plaintiff 5 has not filed a notice of change of address or
otherwise communicated with the Court.

6 II. Discussion 7 Plaintiff is required to keep the Court apprised of his current address at all
times. Local 8 Rule 183(b) provides: 9 Address Changes. A party appearing in propria persona
shall keep the Court and 10 opposing parties advised as to his or her current address. If mail
directed to a plaintiff in propria persona by the Clerk is returned by the U.S. Postal Service, and 11

if such plaintiff fails to notify the Court and opposing parties within thirty (30) days thereafter of a current address, the Court may dismiss the action without prejudice 12 for failure to prosecute.

13 Federal Rule of Civil Procedure 41(b) also provides for dismissal of an action for failure to 14 prosecute.¹ 15 Plaintiff's address change was due no later than January 5, 2026. Plaintiff has failed to file 16 a change of address, and he has not otherwise been in contact with the Court.

The Court will 17 therefore recommend that this action be dismissed without prejudice for failure to prosecute. 18 "In determining whether to dismiss an action for lack of prosecution, the district court is 19 required to weigh several factors: (1) the public's interest in expeditious resolution of litigation; 20 (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public 21 policy favoring disposition of cases on their merits; and (5) the availability of less drastic 22 sanctions." *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir.

1988) (internal quotation marks and 23 citation omitted); accord *Omstead v. Dell, Inc.*, 594 F.3d 1081, 1084 (9th Cir. 2010); *In re 24 Phenylpropanolamine (PPA) Products Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006). 25 These factors guide a court in deciding what to do and are not conditions that must be met in 26 order for a court to take action.

In re PPA, 460 F.3d at 1226 (citation omitted). 27 1 Courts may dismiss actions sua sponte under Rule 41(b) based on the plaintiff's failure to prosecute. 28 *Hells Canyon Pres. Council v. U. S. Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005) (citation omitted). 1 Given Plaintiff's failure to respond to this Court's order, the expeditious resolution of 2 litigation and the Court's need to manage its docket weigh in favor of dismissal.

Id. at 1227. The 3 third factor, risk of prejudice to the defendant, also weighs in favor of dismissal, as a presumption 4 of injury arises from the occurrence of unreasonable delay in prosecuting an action. *Anderson v. 5 Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

The fourth factor usually weighs against dismissal 6 because public policy favors disposition on the merits. *Pagtalunan v. Galaza*, 291 F.3d 639, 643 7 (9th Cir. 2002). However, "this factor lends little support to a party whose responsibility it is to 8 move a case toward disposition on the merits but whose conduct impedes progress in that 9 direction," which is the case here.

In re PPA, 460 F.3d at 1228 (citation omitted). More 10 importantly, given the Court's apparent inability to communicate with Plaintiff, there are no other 11 reasonable alternatives available to address Plaintiff's failure to prosecute this action and his 12 failure to apprise the Court of his current address. *Id.* at 1228–29; *Carey*, 856 F.2d at 1441. 13 III.

Conclusion and Recommendation 14 Accordingly, the Court HEREBY DIRECTS the Clerk of the Court to randomly assign a 15 District Judge to this action. 16 Furthermore, the Court HEREBY RECOMMENDS that this action be dismissed, without 17 prejudice, based on Plaintiff's failure

to prosecute. Fed. R. Civ. P. 41(b); Local Rule 183(b). 18 *** 19 These Findings and Recommendations will be submitted to the United States District 20 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1).

Within 21 fourteen (14) days after being served with these Findings and Recommendations, the parties may 22 file written objections with the court. The document should be captioned “Objections to 23 Magistrate Judge’s Findings and Recommendations.” Objections, if any, shall not exceed 24 fifteen (15) pages or include exhibits. Exhibits may be referenced by document and page 25 number if already in the record before the Court.

Any pages filed in excess of the 15-page 26 limit may not be considered. The parties are advised that failure to file objections within the 27 specified time may result in the waiver of the “right to challenge the magistrate’s factual 28 findings” on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing *Baxter 1 v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir.

1991)). 2 IT IS SO ORDERED. 3 4 Dated: January 13, 2026 /s/ Barbara A. McAuliffe _ UNITED STATES MAGISTRATE JUDGE 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28