

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Ronald Dean Yandell v. G. Newsome, et al.

No. 2:25-CV-1049-DMC-P · No. No. 2:25-CV-1049-DMC-P · Decided June 9, 2025

SUMMARY

The court recommends dismissing this § 1983 action without prejudice because the incarcerated pro se plaintiff failed to resolve the case’s fee status as ordered. The findings and recommendations apply the Ninth Circuit’s factors governing dismissal for lack of prosecution and failure to comply with court orders, and advise that objections may be filed within 14 days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dennis M. Cota
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 9, 2025
DOCKET	No. 2:25-CV-1049-DMC-P
DISPOSITION	other
PROCEDURAL POSTURE	A prisoner proceeding pro se brought a civil-rights action under 42 U.S.C. § 1983. After the court ordered him to resolve the fee status of the case and warned that noncompliance could result in dismissal, he failed to comply. The magistrate judge issued findings and recommendations recommending dismissal without prejudice.
STANDARD OF REVIEW	Dismissal as a sanction for lack of prosecution or failure to comply with court rules or orders is evaluated under a five-factor test: the public interest in expeditious resolution, the court's need to manage its docket, the risk of prejudice to opposing parties, the public policy favoring disposition on the merits, and the availability of less drastic sanctions.
PRECEDENTIAL VALUE	Nonprecedential findings and recommendations of a federal magistrate judge; subject to district-judge review after objections.
PARTIES	Ronald Dean Yandell v. G. Newsome, et al.

TOPICS

civil procedure

sanctions

civil rights

prisoners rights

section 1983

PRACTICE AREAS

Civil procedure

Civil rights

Prisoner litigation

Federal courts

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for lack of prosecution and failure to comply with court rules and the court's order.
2. Whether the five-factor dismissal analysis supported dismissal after Plaintiff failed to resolve the fee status despite a warning that noncompliance could result in dismissal.

HOLDINGS

1. Dismissal without prejudice was appropriate because Plaintiff failed to resolve the fee status as directed after receiving an express warning that noncompliance could result in dismissal.
2. A warning that the action may be dismissed is a sufficient less drastic alternative before dismissal is recommended.

KEY QUOTATIONS

“The Court must weigh five factors before imposing the harsh sanction of dismissal.” (at 1)

“A warning that the action may be dismissed as an appropriate sanction is considered a less drastic alternative sufficient to satisfy the last factor.” (at 1)

FACTUAL BACKGROUND

Plaintiff, a prisoner proceeding pro se, filed a civil-rights action under 42 U.S.C. § 1983. The court directed him to resolve the fee status of the case within 30 days and warned that failure to comply could result in dismissal. Plaintiff did not resolve the fee status or otherwise comply with the directive.

PROCEDURAL HISTORY

On April 25, 2025, the court directed Plaintiff to resolve the fee status within 30 days and warned that failure to do so could result in dismissal for lack of prosecution and failure to comply with court rules and orders. Plaintiff did not comply. The magistrate judge recommended dismissal without prejudice and advised the parties of the 14-day objection period under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- *Bautista v. Los Angeles County*, 216 F.3d 837, 841 (9th Cir. 2000)

- Malone v. U.S. Postal Service, 833 F.2d 128, 130, 132-33 & n.1 (9th Cir. 1987)
- Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995) (per curiam)
- Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 1986)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(PC) Yandell v. Newsome

PER CURIAM.

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8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 RONALD DEAN YANDELL, No. 2:25-CV-1049-DMC-P

12 Plaintiff, 13 v. ORDER 14 G. NEWSOME, et al., and 15 Defendants. FINDINGS AND
RECOMMENDATIONS 16 17 Plaintiff, a prisoner proceeding pro se, brings this civil rights
action pursuant to 18 42 U.S.C. § 1983. 19 On April 25, 2025, the Court directed Plaintiff to
resolve the fee status for this case 20 within 30 days. Plaintiff was warned that failure to resolve
the fee status may result in dismissal 21 of this action for lack of prosecution and failure to comply
with court rules and orders. See Local
22 Rule 110. To date, Plaintiff has not complied.

23 The Court must weigh five factors before imposing the harsh sanction of dismissal. 24 See
Bautista v. Los Angeles County, 216 F.3d 837, 841 (9th Cir. 2000); Malone v. U.S. Postal 25
Service, 833 F.2d 128, 130 (9th Cir. 1987). Those factors are: (1) the public's interest in 26
expeditious resolution of litigation; (2) the Court's need to manage its own docket; (3) the risk of
27 prejudice to opposing parties; (4) the public policy favoring disposition of cases on their merits;
28 and (5) the availability of less drastic sanctions. See id.; see also Ghazali v. Moran, 46 F.3d 52,
1 | 53 (9th Cir. 1995) (per curiam). A warning that the action may be dismissed as an appropriate
2 || sanction is considered a less drastic alternative sufficient to satisfy the last factor. See Malone,
3 | 833 F.2d at 132-33 &n.1. The sanction of dismissal for lack of prosecution is appropriate where
4 || there has been unreasonable delay. See Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 5 ||
1986). Dismissal has also been held to be an appropriate sanction for failure to comply with an 6 ||
order to file an amended complaint. See Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 7 |
1992). 8 Having considered these factors, and in light of Plaintiffs failure to resolve the fee 9 ||
status for this case as directed, the Court finds that dismissal of this action is appropriate. 10 Based
on the foregoing, the undersigned recommends orders and recommends as 11 | follows: 12 1. It is
ORDERED that the Clerk of the Court is directed to randomly assign a 13 || District Judge to this
case. 14 2. It is RECOMMENDED that this action be dismissed, without prejudice, 15 | for lack of

prosecution and failure to comply with court rules and orders. 16 These findings and recommendations are submitted to the United States District 17 || Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(I). Within 14 days 18 || after being served with these findings and recommendations, any party may file written 19 || objections with the court. Responses to objections shall be filed within 14 days after service of 20 || objections. Failure to file objections within the specified time may waive the right to appeal. See 21 | Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991). 22 23 | Dated: June 5, 2025 Co

24 DENNIS M. COTA

25 UNITED STATES MAGISTRATE JUDGE

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