

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Moten v. Office of the Inspector General

Moten v. Office of the Inspector General · No. 1:25-cv-00188-KES-EPG · Decided April 15, 2025

SUMMARY

The court recommends dismissing Sharrod Moten’s 42 U.S.C. § 1983 action without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with court orders. The recommendation follows Plaintiff’s failure to file an amended complaint after the court determined that his original complaint did not comply with Rule 8 and was not filed under oath. Plaintiff was given 30 days to object to the findings and recommendations.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 15, 2025
DOCKET	1:25-cv-00188-KES-EPG
DISPOSITION	dismissed
PROCEDURAL POSTURE	Prisoner civil rights action; findings and recommendations to dismiss for failure to prosecute and failure to comply with court orders.
PRECEDENTIAL VALUE	unpublished

TOPICS

- civil procedure
- prisoners rights
- civil rights
- motions to dismiss
- sanctions

PRACTICE AREAS

- civil procedure
- civil rights

QUESTIONS PRESENTED

- Whether the action should be dismissed without prejudice under Rule 41(b) for failure to prosecute and failure to comply with court orders.
- Whether the Pagtalunan factors weigh in favor of dismissal.

HOLDINGS

1. Dismissal without prejudice under Rule 41(b) is appropriate after weighing the five-factor Pagtalunan test.

KEY QUOTATIONS

“The public’s interest in expeditious resolution of litigation always favors dismissal.”

“The trial judge is in the best position to determine whether the delay in a particular case interferes with docket management and the public interest.”

“Delay inherently increases the risk that witnesses’ memories will fade and evidence will become stale.”

“The authority of a court to dismiss sua sponte for lack of prosecution has generally been considered an ‘inherent power,’ governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.”

FACTUAL BACKGROUND

Plaintiff Sharrod Moten, an incarcerated person proceeding pro se and in forma pauperis, filed a civil rights complaint under 42 U.S.C. § 1983. He sued the Office of the Inspector General, Ombudsman Tammy Falconer, and Kern Valley State Prison, alleging a conspiracy to obstruct justice, shield themselves from liability, and violate his constitutional rights. The Court screened the complaint and found it failed to comply with Federal Rule of Civil Procedure 8 and was not filed under oath. Plaintiff was granted thirty days to file an amended complaint but failed to do so and did not otherwise communicate with the Court.

PROCEDURAL HISTORY

Plaintiff filed a civil rights complaint under 42 U.S.C. § 1983. The Court screened the complaint and found it did not comply with Rule 8 and was not filed under oath. The Court granted Plaintiff leave to amend within thirty days. Plaintiff failed to amend or communicate with the Court. The Magistrate Judge issued Findings and Recommendations to dismiss the action without prejudice under Rule 41(b).

DISPOSITION

dismissed

REMAND INSTRUCTIONS

The Clerk of Court is directed to close this case. The dismissal is without prejudice, and the findings and recommendations are submitted to the assigned district judge. Plaintiff has thirty days to file written objections.

CASES CITED

- Pagtalunan v. Galaza, 291 F.3d 639 (9th Cir. 2002)
- Ferdik v. Bonzelet, 963 F.2d 1258 (9th Cir. 1992)
- Yourish v. California Amplifier, 191 F.3d 983 (9th Cir. 1999)
- Hall v. San Joaquin County Jail, No. 2:13-cv-0324 AC P, 2018 WL 4352909 (E.D. Cal. Sept. 12, 2018)

- Link v. Wabash R. Co., 370 U.S. 626 (1962)
- Wilkerson v. Wheeler, 772 F.3d 834 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391 (9th Cir. 1991)

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