

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Devon Keith Webb v. UShip and GoDaddy

Webb v. UShip · No. 2:25-cv-2043 DJC AC PS · Decided November 20, 2025

SUMMARY

The court recommends dismissing plaintiff Devon Keith Webb’s action against UShip and GoDaddy without prejudice for failure to prosecute and failure to comply with court orders. The recommendation applies the factors from *Ferdik v. Bonzelet* and cites Federal Rule of Civil Procedure 41(b) and Eastern District of California Local Rule 110.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Allison Claire
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 20, 2025
DOCKET	2:25-cv-2043 DJC AC PS
DISPOSITION	dismissed
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal of a pro se action without prejudice for failure to prosecute and failure to comply with court orders.
STANDARD OF REVIEW	The court evaluated dismissal for failure to prosecute under the five-factor framework addressing the public interest in expeditious resolution, docket management, prejudice to defendants, the policy favoring decisions on the merits, and the availability of less drastic alternatives.
PRECEDENTIAL VALUE	Nonprecedential findings and recommendations; subject to review and adoption by the assigned district judge.

TOPICS

- civil procedure
- sanctions

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for failure to prosecute and failure to comply with the court's orders.

HOLDINGS

1. The five factors governing dismissal for failure to prosecute weighed in favor of dismissal because the action could not proceed without plaintiff's participation; dismissal without prejudice was therefore recommended.

KEY QUOTATIONS

“Therefore, IT IS HEREBY RECOMMENDED that this action be dismissed, without prejudice, for lack of prosecution and for failure to comply with the court’s order.” (at 2)

FACTUAL BACKGROUND

Plaintiff proceeded pro se and was granted in forma pauperis status. After the court rejected his complaint and gave him 30 days to file an amended complaint, he failed to do so. Plaintiff also failed to respond to an order to show cause or take any further action to prosecute the case.

PROCEDURAL HISTORY

The court granted plaintiff's application to proceed in forma pauperis but rejected the complaint and granted 30 days to file an amended complaint. Plaintiff did not timely amend the complaint. The court then issued an order to show cause why the action should not be dismissed for failure to prosecute, and plaintiff neither responded nor otherwise prosecuted the case. The magistrate judge recommended dismissal without prejudice, subject to objections and review by the assigned district judge under 28 U.S.C. § 636(b)(1).

DISPOSITION

dismissed

CASES CITED

- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 DEVON KEITH WEBB, No. 2:25-cv-2043 DJC AC PS 12 Plaintiff, 13 v.
FINDINGS AND RECOMMENDATIONS 14 USHIP and GoDADDY., 15 Defendants. 16 17
Plaintiff is proceeding in this action pro se.

The action was accordingly referred to the 18 undersigned for pretrial matters by E.D. Cal. R. (“Local Rule”) 302(c)(21). On September 23, 19 2025, the court granted plaintiff’s in forma pauperis (“IFP”) application but rejected the 20 complaint, granting plaintiff 30 days to file an amended complaint. ECF No. 3. Plaintiff was 21 cautioned that failure to do so could lead to a recommendation that the action be dismissed.

22 Plaintiff did not file an amended complaint within the time limit. On October 29, 2025, the court 23 issued an order to show cause by November 12, 2025 why this case should not be dismissed for 24 failure to prosecute. ECF No. 4. Plaintiff has not responded to the court’s orders, nor taken any 25 action to prosecute this case. 26 In recommending this action be dismissed for failure to prosecute, the court has 27 considered “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to 28 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring 1 || disposition of cases on their merits; and (5) the availability of less drastic alternatives.” *Ferdik v. 2 | Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.

1992) (citation omitted). Because this case cannot 3 || move forward without plaintiffs participation, the court finds the factors weigh in favor of 4 | dismissal. 5 Therefore, IT IS HEREBY RECOMMENDED that this action be dismissed, without 6 || prejudice, for lack of prosecution and for failure to comply with the court’s order. See Fed. R. 7 || Civ. P. 41(b); Local Rule 110.

8 These findings and recommendations are submitted to the United States District Judge 9 || assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one (21) 10 || days after being served with these findings and recommendations, plaintiff may file written 11 || objections with the court. Such document should be captioned “Objections to Magistrate Judge’s 12 | Findings and Recommendations.” Local Rule 304(d).

Plaintiff is advised that failure to file 13 || objections within the specified time may waive the right to appeal the District Court’s order. 14 | *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 1991). 15 | DATED: November 20, 2025 ~ 16 AMhun—Clorne ALLISON CLAIRE 17 UNITED STATES MAGISTRATE JUDGE 18 19 20 21 22 23 24 25 26 27 28