

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

Glen Love v. Benjamin Sanza

Love v. Sanza · No. 2:24-cv-00462-SB-PD · Decided November 3, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 CENTRAL DISTRICT OF
CALIFORNIA 10 11 GLEN LOVE, Case No. 2:24-cv-00462-SB-PD 12 Plaintiff, ORDER
DISMISSING ACTION 13 v. FOR FAILURE TO PROSECUTE 14 BENJAMIN SANZA, 15
Defendant. 16 17 I. Pertinent Procedural History and Plaintiff’s Claims 18 Plaintiff Glen Love, a
former federal inmate proceeding pro se, filed a 19 First Amended Complaint (FAC) pursuant to
42 U.S.C. § 1983 against 20 Defendant Benjamin Sanza, an Inglewood police officer, in his
individual 21 capacity.

Dkt. No. 8 at 3. Plaintiff alleges that on July 30, 2017, Defendant 22 knowingly presented false
information to a California state judge to obtain a 23 search warrant for Plaintiff’s store, the “Stop
& Shop.” Id. at 5–6, 24–36. 24 Plaintiff alleges that Defendant violated his Fourth Amendment
right against 25 unreasonable search and seizure and his Fourteenth Amendment right to due 26
process.

Id. at 5–6. Plaintiff further alleges that his personal property was 27 destroyed, and Defendant had
no legal justification to leave his property 28 1 unsecured to allow thieves to rob it afterwards. Id.
at 6. Plaintiff sought 2 monetary and punitive damages. Id. at 7. 3 The Court screened the FAC
and found that it appeared to be barred by 4 the two-year statute of limitations.

The Court issued an Order to Show Cause 5 (OSC) why this action should not be dismissed as
time barred. Dkt. No. 9. 6 Plaintiff responded to the OSC and explained that he was taken into
federal 7 custody in August 2018, had been on lockdown for 14 months in 2020 and was 8 unable
to conduct any legal research, and was moving between facilities from 9 2022 until his arrival at
FCI Lompoc in September 2023.

Dkt. No. 10. 10 According to Plaintiff, he was diligently pursuing his case but was impeded by 11
external forces and therefore argues he is entitled to equitable tolling. Id. 12 On April 18, 2025,
Plaintiff filed a change of address stating that he was 13 paroled from FCI Lompoc and provided
the Court with his home address. 14 Dkt. No. 11.

On August 8, 2025, the Court discharged the OSC and ordered the U.S. 15 Marshal to serve
Defendant with a Summons and the FAC. Dkt. Nos. 12, 13. 16 On August 25, 2025, the Court’s
Order was returned to the Clerk with a 17 notation “RETURN TO SENDER —INSUFFICIENT

ADDRESS—UNABLE 18 TO FORWARD—RETURN TO SENDER.” Dkt. No. 15. 19 On September 12, 2025, Defendant filed an Answer.

Dkt. No. 16. 20 On September 24, 2025, the Court issued an Order to Show Cause why 21 the FAC should not be dismissed for Plaintiff’s failure to update the docket 22 with his current address.¹ Dkt. No. 19. Plaintiff was ordered to provide a 23 24 1 Local Rule 41-6 requires that a “party proceeding pro se must keep the Court and 25 all other parties informed of the party’s current address as well as any telephone number and email address.

If a Court order or other mail served on a pro se plaintiff 26 at his address of record is returned by the Postal Service as undeliverable and the 27 pro se party has not filed a notice of change of address within 14 days of the service date of the order or other Court document, the Court may dismiss the action with or 28 without prejudice for failure to prosecute.” 1 current address no later than October 8, 2025.

Id. Plaintiff was cautioned 2 that if he failed to respond to the OSC, the Court would recommend dismissal 3 of this action for failure to prosecute. See id. The OSC was mailed to the 4 address listed on the docket. Id. 5 On September 29, 2025, the “Notice of Reassignment of Case Due to 6 Unavailability of Judicial Officer” was returned to the Clerk with a notation 7 “RETURN TO SENDER —NOT DELIVERABLE AS ADDRESSED— 8 UNABLE TO FORWARD.” See Dkt.

Nos. 18, 20. 9 To date, Plaintiff has not responded to the Court’s Orders, provided an 10 updated address, or otherwise communicated with the Court about his case 11 since April 2025. Accordingly, the case is now subject to dismissal for 12 Plaintiff’s failure to prosecute pursuant to Rule 41(b) of the Federal Rules of 13 Civil Procedure and Local Rule 41-6.

14 II. Discussion Rule 41(b) grants district courts the authority to sua sponte dismiss 15 actions for failure to prosecute. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629– 16 30 (1962). In determining whether dismissal for lack of prosecution is 17 warranted, a court must weigh several factors, including: (1) the public’s 18 interest in expeditious resolution of litigation; (2) the court’s need to manage 19 its docket; (3) the risk of prejudice to defendants; (4) the availability of less 20 drastic sanctions; and (5) the public policy favoring the disposition of cases on 21 their merits.

Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002); *Ferdik 22 v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992). Dismissal is appropriate 23 under the foregoing analysis “where at least four factors support dismissal 24... or where at least three factors ‘strongly’ support dismissal[.]” *Hernandez 25 v. City of El Monte*, 138 F.3d 393, 399 (9th Cir. 1998) (citations omitted).

26 In this case, the first two factors – public interest in expeditious 27 resolution of litigation and the need to manage the Court’s docket – weigh in 28 1 favor of dismissal. Plaintiff did not provide an updated address. His failure 2 to update his address—or show good cause for his delay—

prevents the Court 3 from moving this case toward disposition and shows that Plaintiff does not 4 intend to litigate this action diligently.

5 The third factor – prejudice to Defendant – also weighs in favor of 6 dismissal. The Ninth Circuit has held that prejudice may be presumed from 7 unreasonable delay. See *In re Eisen*, 31 F.3d 1447, 1452–53 (9th Cir. 1994); 8 *Moore v. Teflon Commc’ns. Corp.*, 589 F.2d 959, 967–68 (9th Cir. 1978). 9 Plaintiff’s inaction in this matter is an unreasonable delay, given that the 10 Court has attempted to mail several orders to Plaintiff and has received no 11 response.

In the absence of any explanation, non-frivolous or otherwise, for 12 Plaintiff’s delay, the Court presumes prejudice. See *Laurino v. Syringa Gen. 13 Hosp.*, 279 F.3d 750, 753 (9th Cir. 2002) (presumption of prejudice can be 14 rebutted by a non-frivolous explanation); *Pagtalunan*, 291 F.3d at 642 (citing *Yourish v. California Amplifier*, 191 F.3d 983, 991 (9th Cir.

1999)). 15 The fourth factor – the availability of less drastic sanctions – ordinarily 16 counsels against dismissal. However, the Court attempted to avoid outright 17 dismissal by giving Plaintiff ample time to communicate with the Court and 18 update his address. Plaintiff was also expressly warned that he must keep 19 the Court apprised of his address at all times and that his failure to do so may 20 result in the case being dismissed for failure to prosecute.

See Dkt. Nos. 3, 19. 21 Thus, the Court explored the only meaningful alternatives to dismissal in its 22 arsenal and found that they were not effective. See *Henderson v. Duncan*, 779 23 F.2d 1421, 1424 (9th Cir. 1986) (“The district court need not exhaust every 24 sanction short of dismissal before finally dismissing a case, but must explore 25 possible and meaningful alternatives.”) (citation omitted).

26 The fifth factor – the general policy favoring resolution on the merits – 27 ordinarily weighs against dismissal. *Pagtalunan*, 291 F.3d at 643. It is, 28! || however, the responsibility of the moving party to move the case toward 2 || disposition on the merits at a reasonable pace and to refrain from dilatory and 3 || evasive tactics. *Morris v. Morgan Stanley & Co.*, 942 F.2d 648, 652 (9th Cir.

4 || 1991). Because Plaintiff has failed to participate in his own lawsuit, it does 5 || not appear that retention of this case would increase the likelihood of the 6 || matter being resolved on its merits. This factor does not weigh in favor of or 7 || against dismissal. 8 In sum, four out of the five factors support dismissal.

The Court 9 || concludes that dismissal for failure to prosecute 1s warranted. 10 For the foregoing reasons, this action is dismissed without prejudice for 1] || failure to prosecute. 12 | ITIS SO ORDERED. 1S Dated: November 8, 2025 14 Bes. 17 United States District Judge 18 19 20 21 22 23 24 25 26 27 28

