

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Michael Laurence Hoke v. M. Nunez, et al.

Hoke v. Nunez · No. 2:25-cv-0275-JDP (P) · Decided May 29, 2025

SUMMARY

The United States District Court for the Eastern District of California orders plaintiff Michael Laurence Hoke to show cause why his action should not be dismissed. The order states that plaintiff failed to respond to a prior screening order requiring an amended complaint or voluntary dismissal and directs him to file an explanation or amended complaint within twenty-one days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 29, 2025
DOCKET	2:25-cv-0275-JDP (P)
DISPOSITION	other
PROCEDURAL POSTURE	After screening the complaint and finding that it failed to state a claim, the court ordered plaintiff to file an amended complaint or a voluntary notice of dismissal. When plaintiff filed no response, the court issued an order to show cause why the action should not be dismissed.
PRECEDENTIAL VALUE	Unknown
PARTIES	Michael Laurence Hoke v. M. Nunez, et al.

TOPICS

- sanctions
- civil procedure
- section 1983
- prisoners rights

PRACTICE AREAS

- civil procedure
- prisoner civil rights
- failure to prosecute

QUESTIONS PRESENTED

1. Whether the court may issue an order to show cause and potentially dismiss the action based on plaintiff's failure to prosecute and failure to comply with the court's prior order.
2. Whether plaintiff should be required to show cause why the action should not be dismissed for failure to state a claim.

HOLDINGS

1. A court may use its inherent power to control its docket and dismiss an action for failure to prosecute, failure to obey a court order, or failure to comply with local rules.

KEY QUOTATIONS

“A court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.” (1)

FACTUAL BACKGROUND

The court had previously determined that plaintiff's complaint did not state a claim. Plaintiff was given thirty days to amend the complaint or voluntarily dismiss the action, but he did not file either document or otherwise respond.

PROCEDURAL HISTORY

On April 16, 2025, the court screened plaintiff's complaint and notified him that it did not state a claim. The court gave plaintiff thirty days to file an amended complaint or voluntary notice of dismissal, but he filed no response. The court therefore ordered plaintiff to show cause within twenty-one days why the action should not be dismissed for failure to prosecute, failure to comply with court orders, and failure to state a claim.

DISPOSITION

other

CASES CITED

- *Bautista v. Los Angeles Cnty.*, 216 F.3d 837, 841 (9th Cir. 2000)
- *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986)

OPINION

(PC) Hoke v. Nunez

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 MICHAEL LAURENCE HOKE, Case No. 2:25-cv-0275-JDP (P) 12 Plaintiff,

13 v. ORDER TO SHOW CAUSE

14 M. NUNEZ, et al., 15 Defendants. 16 17 On April 16, 2025, I screened plaintiff's complaint
and notified him that it did not state a 18 claim. ECF No. 5. I ordered him to file, within thirty
days, either an amended complaint or a 19 voluntary notice of dismissal. Id. To date, plaintiff has
not filed any response. 20 The court has the inherent power to control its docket and may, in the
exercise of that 21 power, impose sanctions where appropriate, including dismissal. *Bautista v.*
Los Angeles Cnty., 22 216 F.3d 837, 841 (9th Cir. 2000); see Local Rule 110 ("Failure of counsel
or of a party to 23 comply with these Rules or with any order of the Court may be grounds for
imposition by the 24 Court of any and all sanctions . . . within the inherent power of the Court.").
A court may dismiss 25 an action based on a party's failure to prosecute an action, failure to obey
a court order, or failure 26 to comply with local rules. See *Henderson v. Duncan*, 779 F.2d 1421,
1424 (9th Cir. 1986) 27 (dismissal for lack of prosecution and failure to comply with local rules).
28 I will give plaintiff a chance to explain why the court should not dismiss the case for his 1 |
failure to file an amended complaint. Plaintiffs failure to respond to this order will constitute a 2 |
failure to comply with a court order and will result in a recommendation that this action be 3 |
dismissed. Accordingly, plaintiff is ordered to show cause within twenty-one days why this case 4 |
should not be dismissed for failure to prosecute, failure to comply with court orders, and failure to
5 | state a claim. Should plaintiff wish to continue with this lawsuit, he shall file, within twenty-one
6 | days, an amended complaint. 7 g IT IS SO ORDERED. Dated: _ May 29, 2025 q——

10 JEREMY D. PETERSON

i UNITED STATES MAGISTRATE JUDGE

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