

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Alonso v. Imperial County Sheriff Office

Alonso · No. 23-CV-0005-CAB-BGS · Decided March 6, 2023

SUMMARY

The United States District Court for the Southern District of California granted Defendants’ unopposed motion to dismiss a 42 U.S.C. § 1983 complaint. Applying the factors discussed in Ghazali v. Moran, the court dismissed the complaint without prejudice based on Plaintiff’s failure to oppose the motion and ordered the case closed.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Cathy Ann Bencivengo
JURISDICTION	United States District Court for the Southern District of California
DECIDED	March 6, 2023
DOCKET	23-CV-0005-CAB-BGS
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendants moved to dismiss the complaint under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim under 42 U.S.C. § 1983. The motion was unopposed.
STANDARD OF REVIEW	The court applied the local-rule dismissal factors identified in Ghazali v. Moran, including the public interest in expeditious resolution, the court's need to manage its docket, prejudice to defendants, the policy favoring decisions on the merits, and the availability of less drastic sanctions.
PRECEDENTIAL VALUE	Unpublished district court order; generally nonprecedential.
PARTIES	Christopher K. Alonso v. Imperial County Sheriff Office et al.

TOPICS

- motions to dismiss
- section 1983
- civil procedure
- sanctions

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the court should grant an unopposed motion to dismiss when the plaintiff failed to file a timely opposition under the court's local rules.
2. Whether dismissal without prejudice was warranted after applying the factors governing dismissal for failure to comply with local rules.

HOLDINGS

1. A plaintiff's failure to oppose a motion to dismiss as required by the Southern District of California's local rules may constitute consent to the granting of the motion.
2. Dismissal without prejudice was warranted because Plaintiff's failure to oppose the motion indicated abandonment and consent, and the relevant Ghazali factors supported dismissal.

KEY QUOTATIONS

“Accordingly, the motion to dismiss is GRANTED based on the lack of opposition, and the complaint is DISMISSED WITHOUT PREJUDICE.” (at 3)

FACTUAL BACKGROUND

Defendants moved to dismiss Plaintiff's § 1983 complaint on January 26, 2023. The motion set March 2, 2023, as a hearing date for briefing purposes, making Plaintiff's opposition due February 16, 2023, under Civil Local Rule 7.1.e.2. Plaintiff filed no opposition.

PROCEDURAL HISTORY

Plaintiff filed a civil-rights complaint in the Southern District of California. Defendants filed an unopposed motion to dismiss on January 26, 2023. Because Plaintiff failed to file an opposition required by the court's local rules, the court deemed the failure indicative of abandonment and consent, granted the motion, dismissed the complaint without prejudice, and closed the case.

DISPOSITION

dismissed

CASES CITED

- Ghazali v. Moran, 46 F.3d 52, 53 (9th Cir. 1995)
- Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 1986)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF CALIFORNIA 10 CHRISTOPHER K. ALONSO, Case No.: 23-CV-0005-CAB-BGS 11 Plaintiff,

ORDER GRANTING UNOPPOSED 12 v. MOTION TO DISMISS COMPLAINT 13 IMPERIAL COUNTY SHERIFF OFFICE et al., 14 [Doc. No. 5] Defendants. 15 16 This matter is before the Court on Defendants' motion to dismiss on the grounds that 17 the complaint fails to state a claim under 42 U.S.C. § 1983.

The motion was filed on 18 January 26, 2023, and set a hearing date (for briefing purposes only) of March 2, 2023. 19 Civil Local Rule 7.1.e.2 requires a party opposing a motion to file an opposition or 20 statement of non-opposition no later than fourteen calendar days before the noticed hearing. 21 Thus, based on the hearing date of March 2, 2023, Plaintiff's opposition to the motion to 22 dismiss was due on February 16, 2023.

No opposition has been filed. Under the local 23 rules, Plaintiff's failure to oppose "may constitute a consent to the granting of [the] 24 motion." See CivLR 7.1.f.3.c. 25 District courts have broad discretion to enact and apply local rules, including 26 dismissal of a case for failure to comply with the local rules. *Ghazali v. Moran*, 46 F.3d 27 52, 53 (9th Cir.

1995) (affirming grant of an unopposed motion to dismiss under local rule 28 1 || by deeming a pro se litigant's failure to oppose as consent to granting the motion). Before 2 dismissing an action for failure to comply with local rules, the district court "weigh[s] 3 several factors: '(1) the public's interest in expeditious resolution of litigation; (2) the 4 ||court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public 5 || policy favoring disposition of cases on their merits; and (5) the availability of less drastic 6 ||sanctions.'" *Ghazali*, 46 F.3d at 53 (quoting *Henderson v.*

Duncan, 779 F.2d 1421, 1423 7 || (9th Cir. 1986)). 8 Here, the *Ghazali* factors support granting the motion based on the lack of opposition 9 because Plaintiffs failure to oppose the motion to dismiss indicates that Plaintiff has 10 || abandoned this lawsuit and consents to the granting of the motion to dismiss.

The public's 11 ||/interest in expeditious resolution of litigation, the court's need to manage its docket, the 12 ||risk of prejudice to defendants by further delays in this litigation, and the lack of 13 || appropriate less drastic sanctions all support dismissal.

Accordingly, the motion to dismiss 14 ||is GRANTED based on the lack of opposition, and the complaint is DISMISSED 15 || WITHOUT PREJUDICE.' The Clerk of Court shall CLOSE this case. 16 Itis SO ORDERED. 17 ||Dated: March 6, 2023 18 Y g 19 30 Hon. Cathy Ann Bencivengo United States District Judge 21 22 23 24 25 || 27 ||! If Plaintiff's failure to oppose the motion to dismiss was inadvertent, he must file a motion for relief 28 from this order under Federal Rule of Civil Procedure 60, along with a brief in opposition to the motion to dismiss, by April 3, 2023.

