

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

United States ex rel. Fatima Ann Katumbusi v. Wasatch Property
Management, et al.

Katumbusi v. Wasatch Property Management · No. 2:22-cv-0250-DAD-JDP (PS) · Decided May 15, 2025

SUMMARY

The magistrate judge recommends dismissing the action without prejudice because the plaintiff failed to prosecute, failed to comply with court orders, and failed to state a claim. The recommendation applies the factors governing dismissal for failure to prosecute and failure to obey court orders, and advises the parties of the procedure and deadline for filing objections.

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 15, 2025
DOCKET	2:22-cv-0250-DAD-JDP (PS)
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal without prejudice of a qui tam action for failure to prosecute, failure to comply with court orders, and failure to state a claim.
PRECEDENTIAL VALUE	Nonprecedential unpublished findings and recommendations; not a final district court disposition in the text provided.
PARTIES	United States ex rel. Fatima Ann Katumbusi v. Wasatch Property Management, et al.

TOPICS

- sanctions
- civil procedure
- pleadings

PRACTICE AREAS

- civil procedure
- False Claims Act

QUESTIONS PRESENTED

1. Whether dismissal without prejudice was warranted because plaintiff failed to prosecute the action and failed to comply with orders requiring an amended complaint, notice of voluntary dismissal, or a response to the order to show cause.
2. Whether the court's consideration of the relevant dismissal factors and prior warning satisfied the requirement that less drastic alternatives be considered.

HOLDINGS

1. Dismissal without prejudice was warranted because plaintiff failed to prosecute the action and failed to comply with orders directing her to file an amended complaint or notice of voluntary dismissal and to respond to the order to show cause.
2. The action should also be dismissed without prejudice for failure to state a claim for the reasons stated in the court's February 24, 2025 screening order.

KEY QUOTATIONS

“The court has the inherent power to control its docket and may, in the exercise of that power, impose sanctions where appropriate, including dismissal.” (at 1)

“I therefore find that the balance of factors weighs in favor of dismissal.” (at 2)

FACTUAL BACKGROUND

Plaintiff's complaint had been dismissed at screening for failure to state a claim. The court gave plaintiff the option to amend or voluntarily dismiss, but she did neither. Plaintiff also failed to respond to a subsequent order to show cause warning that noncompliance could lead to dismissal.

PROCEDURAL HISTORY

The court screened plaintiff's complaint on February 24, 2025, dismissed it for failure to state a claim, and ordered plaintiff to file either an amended complaint or a notice of voluntary dismissal within thirty days. After plaintiff failed to comply, the court issued an order to show cause on April 23, 2025, warning that failure to respond would result in a recommendation of dismissal. Plaintiff did not respond, and the magistrate judge recommended dismissal without prejudice and closure of the case, subject to review by the assigned district judge under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- *Bautista v. Los Angeles County*, 216 F.3d 837, 841 (9th Cir. 2000)
- *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995)
- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)

- Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
- Malone v. U.S. Postal Serv., 833 F.2d 128, 130 (9th Cir. 1987)
- Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(PS) Katumbusi v. Wasatch Property Management

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 UNITED STATES OF AMERICA, ex rel. Case No. 2:22-cv-0250-DAD-JDP (PS)

FATIMA ANN KATUMBUSI,

12 Plaintiff,

13 FINDINGS AND RECOMMENDATIONS

v. 14

WASATCH PROPERTY

15 MANAGEMENT, et al., 16 Defendants. 17 18 On February 24, 2025, I screened plaintiff's
 19 complaint and dismissed it for failure to state a claim. ECF No. 20. I ordered plaintiff to file,
 20 within thirty days, either an amended complaint 20 or a notice of voluntary dismissal of this
 21 action. Id. Plaintiff failed to comply with that order. 21 Therefore, on April 23, 2025, I ordered
 22 plaintiff to show cause why this action should not be 22 dismissed. ECF No. 22. I notified plaintiff
 23 that if she wished to continue with this lawsuit, she 23 must file an amended complaint. I also
 24 warned plaintiff that failure to comply with the April 23 24 order would result in a
 25 recommendation that this action be dismissed. Id. Plaintiff has not 25 responded to the order to
 26 show cause, and the time to do so has passed. 26 The court has the inherent power to control its
 27 docket and may, in the exercise of that 27 power, impose sanctions where appropriate, including
 28 dismissal. *Bautista v. Los Angeles Cnty.*, 28 216 F.3d 837, 841 (9th Cir. 2000); see Local Rule 110
 29 ("Failure of counsel or of a party to 1 comply with these Rules or with any order of the Court may
 30 be grounds for imposition by the 2 Court of any and all sanctions . . . within the inherent power of
 31 the Court."). 3 A court may dismiss an action based on a party's failure to prosecute an action,
 32 failure to 4 obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d
 33 52, 53-54 5 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963
 34 F.2d 1258, 6 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order to file an
 35 amended 7 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for
 36 failure to 8 comply with local rule requiring pro se plaintiffs to keep court apprised of address);
 37 *Malone v. 9 U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply

with court 10 order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of 11 prosecution and failure to comply with local rules). 12 In recommending that this action be dismissed for failure to comply with court orders, I 13 have considered “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s 14 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy 15 favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.” 16 *Ferdik*, 963 F.2d at 1260-61 (citation omitted). 17 Here, plaintiff failed to respond to the order directing her to file an amended complaint or 18 notice of voluntary dismissal. See ECF No. 20. Therefore, the public interest in expeditious 19 resolution of litigation, the court’s need to manage its docket, and the risk of prejudice to the 20 defendant all support imposition of the sanction of dismissal. Lastly, my warning to plaintiff that 21 failure to obey court orders will result in dismissal satisfies the “considerations of the 22 alternatives” requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 at 132-33; *Henderson*, 779 23 F.2d at 1424. The April 23, 2025 order expressly warned plaintiff that failure to comply with 24 court orders would result in dismissal. ECF No. 20. Plaintiff had adequate warning that 25 dismissal could result from noncompliance. I therefore find that the balance of factors weighs in 26 favor of dismissal. 27 28 1 Accordingly, it is hereby RECOMMENDED that: 2 1. This action be dismissed without prejudice for failure to prosecute, failure to comply 3 | with court orders, and failure to state a claim for the reasons set forth in the court’s February 24, 4 | 2025 order. See ECF No. 20. 5 2. The Clerk of Court be directed to close the case. 6 These findings and recommendations are submitted to the United States District Judge 7 | assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of 8 | service of these findings and recommendations, any party may file written objections with the 9 | court and serve a copy on all parties. Any such document should be captioned “Objections to 10 | Magistrate Judge’s Findings and Recommendations,” and any response shall be served and filed 11 | within fourteen days of service of the objections. The parties are advised that failure to file 12 | objections within the specified time may waive the right to appeal the District Court’s order. See 13 | *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 14 | 1991). 15 16 IT IS SO ORDERED. 17 (1 Sy — Dated: _ May 15, 2025 a

18 JEREMY D. PETERSON

19 UNITED STATES MAGISTRATE JUDGE

20 21 22 23 24 25 26 27 28