

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Cavalier v. Aranda

No. 3:24-cv-01275 AJB-JLB (S.D. Cal. Feb. 23, 2025) · No. 3:24-cv-01275 AJB-JLB · Decided February 24,
2025

SUMMARY

The United States District Court for the Southern District of California grants Robert Thomas Cavalier’s second motion for an extension of time to amend his § 1983 complaint. The court extends the deadline to May 12, 2025 and warns that failure to amend may result in dismissal for failure to state a claim and failure to prosecute.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Anthony J. Battaglia
JURISDICTION	United States District Court for the Southern District of California
DECIDED	February 24, 2025
DOCKET	3:24-cv-01275 AJB-JLB
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for a second extension of time to file an amended civil-rights complaint after the court dismissed his original complaint for failure to state a claim and granted leave to amend.
STANDARD OF REVIEW	The court applied the good-cause standard under Federal Rule of Civil Procedure 6(b)(1)(A).
PRECEDENTIAL VALUE	Unknown; unpublished district court order
PARTIES	Robert Thomas Cavalier v. A. Aranda, et al.

TOPICS

- motion to amend
- pleadings
- civil procedure
- section 1983
- prisoners rights

PRACTICE AREAS

- civil procedure
- civil rights
- prisoner litigation

QUESTIONS PRESENTED

1. Whether the plaintiff established good cause under Federal Rule of Civil Procedure 6(b)(1)(A) for a second extension of the deadline to amend his complaint.
2. Whether the court should warn that failure to file an amended complaint by the extended deadline could result in dismissal for failure to state a claim and failure to prosecute.

HOLDINGS

1. A timely request supported by the plaintiff's transfer between correctional institutions, loss of access to legal materials, and lack of law-library access established good cause for extending the deadline to amend.
2. A pro se prisoner must comply with court orders and applicable procedural rules, and failure to timely file an amended complaint may result in dismissal, including dismissal with prejudice.

KEY QUOTATIONS

“Accordingly, the Court GRANTS Plaintiff’s second motion for extension of time (ECF No. 13) and once again EXTENDS the time to amend to May 12, 2025.” (at 4)

FACTUAL BACKGROUND

Cavalier was incarcerated and proceeding without counsel in a § 1983 action. After receiving leave to amend, he was transferred to another correctional facility, had his property and legal materials packed for transit, and lacked access to a law library and sufficient time to research and prepare an amended complaint. He timely requested an additional 90 to 120 days to amend.

PROCEDURAL HISTORY

Cavalier filed a pro se 42 U.S.C. § 1983 action in the Northern District of California. The case was transferred to the Southern District of California for improper venue. The court granted in forma pauperis status, dismissed the complaint under 28 U.S.C. §§ 1915(e)(2) and 1915A, and granted leave to amend. After previously extending the amendment deadline, the court granted Cavalier's second motion and extended the deadline to May 12, 2025.

DISPOSITION

other

CASES CITED

- Ahanchian v. Xenon Pictures, Inc., 624 F.3d 1253, 1258-59 (9th Cir. 2010)
- Rodgers v. Watt, 722 F.2d 456, 459 (9th Cir. 1983)
- Hubbard v. Sheffield, 2014 WL 1309175, at *7 (D. Mont. Mar. 31, 2014), aff'd, 669 F. App'x 443 (9th Cir. 2016)
- Balistreri v. Pacifica Police Department, 901 F.2d 696, 699 (9th Cir. 1990)
- Eldridge v. Block, 832 F.2d 1132, 1136 (9th Cir. 1987)

- Tarantino v. Eggers, 380 F.2d 465, 468 (9th Cir. 1967)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-63 (9th Cir. 1992)
- Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002)
- Moore v. United States, 193 F.R.D. 647, 653 (N.D. Cal. 2000)
- Franklin v. Murphy, 745 F.2d 1221, 1232-33 (9th Cir. 1984)
- Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc., 896 F.2d 1542, 1546 (9th Cir. 1990)
- Lacey v. Maricopa County, 693 F.3d 896, 928 (9th Cir. 2012)
- Lira v. Herrera, 427 F.3d 1164, 1169 (9th Cir. 2005)
- Edwards v. Marin Park, 356 F.3d 1058, 1065 (9th Cir. 2004)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 ROBERT THOMAS CAVALIER, Case No.: 3:24-cv-01275 AJB-JLB CDCR
#E-98747, 12 ORDER GRANTING SECOND Plaintiff, 13 MOTION FOR EXTENSION OF vs.
TIME TO AMEND 14 A. ARANDA, et al., 15 (ECF No. 13) Defendants. 16 17 18 On June 24,
2024, Plaintiff Robert Thomas Cavalier, while incarcerated at Richard 19 J. Donovan Correctional
Facility in San Diego (“RJD”), and proceeding pro se, filed this 20 civil rights action pursuant to
42 U.S.C. § 1983 in the Northern District of California, 21 together with a motion to proceed in
forma pauperis (“IFP”).

(ECF Nos. 1-2.) The case 22 was transferred here for lack of proper venue, and on October 2,
2024, the Court granted 23 Plaintiff leave to proceed IFP, dismissed his Complaint for failure to
state a claim pursuant 24 to 28 U.S.C. § 1915(e)(2) and 1915A, and granted him leave to amend
on or before 25 November 18, 2024. (ECF No. 9.) 26 On November 20, 2024, the Court granted
Plaintiff’s first motion requesting more 27 time to amend—giving him two additional months, or
until February 19, 2025, in which to 28 comply with the Court’s October 2, 2024 Order.

(ECF No. 11.) Instead of amending, 1 however, on February 10, 2025, Plaintiff filed a second
motion notifying the Court of his 2 transfer to the California Substance Abuse Treatment Facility
(“SATF”) in Corcoran, and 3 requesting an additional 90 to 120 days to amend. (See ECF No. 13.)
4 Rule 6(b)(1) of the Federal Rules of Civil Procedure provides that “[w]hen an act 5 may or must
be done within a specified time, the court may, for good cause, extend the 6 time: (A) with or
without motion or notice if the court acts, or if a request is made, before 7 the original time or its
extension expires[.]” Fed.

R. Civ. P. 6(b)(1)(A). “This rule, like all 8 the Federal Rules of Civil Procedure, ‘[is] to be liberally
construed to effectuate the general 9 purpose of seeing that cases are tried on the merits.’”
Ahanchian v. Xenon Pictures, Inc., 10 624 F.3d 1253, 1258–59 (9th Cir. 2010) (quoting Rodgers v.
Watt, 722 F.2d 456, 459 (9th 11 Cir.1983)); see also Fed. R. Civ.

P. 1 (“[The Federal Rules] should be construed and 12 administered to secure the just, speedy, and inexpensive determination of every action and 13 proceeding.”). 14 Motions for extension of time are not uncommon and are typically found to be 15 supported by good cause, especially when a party is unrepresented. See *Hubbard v. 16 Sheffield*, 2014 WL 1309175, at *7 (D.

Mont. Mar. 31, 2014), *aff’d*, 669 F. App’x 443 (9th Cir. 2016). In fact, the court has a “duty to ensure that pro se litigants do not lose their 18 right to a hearing on the merits of their claim due to... technical procedural requirements,” 19 *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990), and “[s]trict time 20 limits... ought not to be insisted upon’ where restraints resulting from a pro se...

21 plaintiff’s incarceration prevent timely compliance with court deadlines.” *Eldridge v. 22 Block*, 832 F.2d 1132, 1136 (9th Cir. 1987) (citing *Tarantino v. Eggers*, 380 F.2d 465, 468 23 (9th Cir. 1967)). 24 Nevertheless, a plaintiff pursuing a civil rights action without counsel, like all other 25 litigants, is required to obey the court’s orders, including an order to amend his pleading, 26 and to do so within a time certain.

Ferdik v. Bonzelet, 963 F.2d 1258, 1260–61 (9th Cir. 27 1992); *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002). A failure to obey the 28 court’s orders, local and federal rules, and/or to timely and responsibly prosecute an action 1 may result in dismissal, including dismissal with prejudice. *Ferdik*, 963 F.2d at 1262–63 2 (affirming dismissal with prejudice for pro se prisoner’s failure to comply with order 3 requiring filing of amended civil rights complaint); *Pagtalunan*, 291 F.3d at 642 (affirming 4 dismissal with prejudice for pro se prisoner’s failure to comply with order requiring filing 5 of amended habeas petition); *Moore v. United States*, 193 F.R.D.

647, 653 (N.D. Cal. 2000) 6 (denying motion for leave to file third amended complaint and dismissing action with 7 prejudice for pro se plaintiff’s failure to comply with Rule 8); *Franklin v. Murphy*, 745 8 F.2d 1221, 1232–33 (9th Cir. 1984) (affirming dismissal with prejudice for pro se 9 prisoner’s failure to prosecute). 10 In his recent motion, which is timely, Plaintiff claims he has been “uprooted and 11 relocated” to SATF, had his personal property and legal worked packed for transit, and has 12 had no access to the law library or time to research and compose his Amended Complaint.

13 (See ECF No. 13 at 1.) These restraints related to his incarceration are alleged to have 14 prevented Plaintiff’s compliance with the Court’s October 2, 2024 Order, and thus are 15 sufficient to show good cause under Rule 6. See *Eldridge*, 832 F.2d at 1136. 16 CONCLUSION 17 Accordingly, the Court GRANTS Plaintiff’s second motion for extension of time 18 (ECF No. 13) and once again EXTENDS the time to amend to May 12, 2025.

Plaintiff is 19 reminded that his Amended Complaint must be complete by itself without reference to his 20 previous pleading. Any Defendants not re-named and any claims not re-alleged in the 21

Amended Complaint will be considered waived. See S.D. Cal. CivLR 15.1; *Hal Roach 22 Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989) (“[A]n amended pleading supersedes the original.”); *Lacey v. Maricopa County*, 693 F.3d 896, 24 928 (9th Cir.

2012) (noting that claims dismissed with leave to amend which are not re- 25 alleged in an amended pleading may be “considered waived if not replied.”). 26 As this is Plaintiff’s second request, the extension is generous, and more than six full 27 months will have elapsed since the Court’s October 2, 2024 screening Order, Plaintiff 28 should assume that no further extensions of time to amend will be granted. 1 Should Plaintiff fail to file an Amended Complaint on or before May 12, 2025, this 2 || case will be dismissed based both on his failure to state a claim upon which § 1983 can be 3 || granted and his failure to prosecute.

See *Lira v. Herrera*, 427 F.3d 1164, 1169 (9th Cir. 4 ||2005) (“If a plaintiff does not take advantage of the opportunity to fix his complaint, a 5 || district court may convert the dismissal of the complaint into dismissal of the entire 6 || action.”); *Edwards v. Marin Park*, 356 F.3d 1058, 1065 (9th Cir. 2004) (“The failure of the 7 || plaintiff eventually to respond to the court’s ultimatum—either by amending the complaint 8 by indicating to the court that it will not do so—is properly met with the sanction of a 9 || Rule 41(b) dismissal.”).

10 IT ISSO ORDERED. 11 Dated: February 23, 2025 © ¢ 12 Hon. Anthony J. attaglia 13 United States District Judge 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 4 oe