

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Fordyce v. Shirley

Fordyce · No. 1:25-cv-00106 GSA (PC) · Decided March 10, 2025

SUMMARY

The United States District Court for the Eastern District of California directs Plaintiff Joshua Fordyce to show cause why the § 1983 action should not be dismissed for failure to prosecute and failure to obey a court order. The court alternatively permits Plaintiff to file a first amended complaint within thirty days.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Gary S. Austin
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 10, 2025
DOCKET	1:25-cv-00106 GSA (PC)
DISPOSITION	other
PROCEDURAL POSTURE	In a pro se prisoner civil-rights action under 42 U.S.C. § 1983, the court previously screened the complaint and found that it failed to state a claim, ordering Plaintiff to file an amended complaint. After Plaintiff failed to do so or request an extension, the court issued an order to show cause.
PRECEDENTIAL VALUE	Unknown; district-court order directing a pro se prisoner to show cause

TOPICS

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

PRACTICE AREAS

- civil rights
- prisoner civil rights
- federal civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff's failure to file an amended complaint as ordered warranted an order to show cause for failure to prosecute and failure to obey a court order.
2. Whether Plaintiff should be permitted to file a first amended complaint instead of filing a showing of cause.

HOLDINGS

1. A plaintiff's failure to comply with an order directing the filing of an amended complaint may warrant an order to show cause why the action should not be dismissed for failure to prosecute and failure to obey a court order.
2. The court allowed Plaintiff thirty days either to show cause why the action should not be dismissed or to file a first amended complaint.

KEY QUOTATIONS

"Plaintiff's failure to file an amended complaint as ordered has stalled this process, and it warrants the Court issuing an order directing Plaintiff to show cause why this matter should not be dismissed for failure to prosecute and for failure to obey a court order." (at 2)

FACTUAL BACKGROUND

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in a civil-rights action seeking relief under 42 U.S.C. § 1983. The court's screening order found that the complaint failed to state a claim and directed Plaintiff to file an amended complaint within thirty days. Plaintiff allowed that period to expire without amending the complaint or requesting an extension, and three motions for appointment of counsel were denied.

PROCEDURAL HISTORY

Plaintiff filed a § 1983 action while proceeding in forma pauperis. On January 29, 2025, the court screened the complaint, determined that it failed to state a claim, and allowed thirty days to amend. Plaintiff did not amend or seek an extension, instead filing three unsuccessful motions for appointment of counsel. The court ordered Plaintiff to show cause within thirty days why the action should not be dismissed, while permitting Plaintiff to file a first amended complaint as an alternative.

DISPOSITION

other

CASES CITED

- Hernandez v. City of El Monte, 138 F.3d 393, 399 (9th Cir. 1998)