

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

**Damen D. Rabb v. California Department of Correction &
Rehabilitation, et al.**

Rabb v. California Department of Correction & Rehabilitation · No. 1:23-cv-01381-HBK (PC) · Decided
December 15, 2025

SUMMARY

The document contains a magistrate judge’s findings and recommendations in a prisoner civil rights action under 42 U.S.C. § 1983. The court recommends dismissing the action without prejudice under Federal Rule of Civil Procedure 41(b) and Eastern District of California Local Rule 110 because the plaintiff failed to comply with a screening order and failed to prosecute.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Helena M. Barch-Kuchta
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 15, 2025
DOCKET	1:23-cv-01381-HBK (PC)
DISPOSITION	other
PROCEDURAL POSTURE	A state prisoner proceeding pro se and in forma pauperis filed a 42 U.S.C. § 1983 action. After the court screened the complaint and found that it failed to state a federal claim, the court ordered Plaintiff to amend, stand on the complaint, or voluntarily dismiss. Plaintiff did none of these and did not request an extension. The magistrate judge recommended dismissal without prejudice under Federal Rule of Civil Procedure 41(b) and Local Rule 110.
STANDARD OF REVIEW	Dismissal for failure to prosecute or failure to comply with a court order under Federal Rule of Civil Procedure 41(b), evaluated under the five-factor test governing involuntary dismissal in the Ninth Circuit.
PRECEDENTIAL VALUE	Nonprecedential findings and recommendations of a federal magistrate judge; not a final district-court decision unless adopted.

TOPICS

sanctions

civil procedure

prisoners rights

section 1983

due process

PRACTICE AREAS

civil procedure

prisoner civil rights

constitutional law

sanctions

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) and Eastern District of California Local Rule 110 because Plaintiff failed to comply with a court order.
2. Whether the Ninth Circuit's five dismissal factors—expeditious resolution, docket management, prejudice, disposition on the merits, and availability of less drastic sanctions—support involuntary dismissal.

HOLDINGS

1. A federal court may involuntarily dismiss an action under Federal Rule of Civil Procedure 41(b) and its inherent docket-management authority when a party fails to prosecute the action or obey a court order.
2. Dismissal without prejudice is warranted where the public interest in expeditious resolution, docket management, risk of prejudice, and availability of less drastic sanctions favor dismissal, and the merits factor provides insufficient counterweight after the plaintiff fails to prosecute despite an explicit warning.

KEY QUOTATIONS

“Federal Rule of Civil Procedure 41(b) permits the court to involuntarily dismiss an action when a litigant fails to prosecute an action or fails to comply with other Rules or with a court order.” (at 1)

“In determining whether to dismiss an action, the Court must consider the following factors: (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.” (at 2)

“This action be DISMISSED without prejudice for Plaintiff’s failure to obey a court order and failure to prosecute this action.” (at 5)

FACTUAL BACKGROUND

Plaintiff, a state prisoner, filed a pro se and in forma pauperis § 1983 complaint alleging that damage to his television violated his Fourteenth Amendment due-process rights. He sought monetary compensation to replace the television and \$5,000 in punitive damages. After screening, the court found that the complaint failed to state a federal claim and directed Plaintiff to amend, stand on the complaint, or voluntarily dismiss. Plaintiff failed to select any option or request additional time after receiving an express warning that noncompliance could result in dismissal.

PROCEDURAL HISTORY

Plaintiff filed a civil-rights complaint concerning damage to his television and alleged a Fourteenth Amendment due-process violation. On October 22, 2025, the court issued a screening order under 28 U.S.C. § 1915A, found the complaint deficient, and gave Plaintiff three procedural options with an express warning that noncompliance could result in dismissal as a sanction. Plaintiff failed to respond by the deadline. The magistrate judge ordered assignment of a district judge and recommended dismissal without prejudice, subject to objections within fourteen days.

DISPOSITION

other

CASES CITED

- Applied Underwriters v. Lichtenegger, 913 F.3d 884, 889
- Thompson v. Housing Auth., City of Los Angeles, 782 F.2d 829, 831
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61
- Malone v. U.S. Postal Service, 833 F.2d 128, 130-31
- Henderson v. Duncan, 779 F.2d 1421, 1423-24
- Carey v. King, 856 F.2d 1439, 1440
- Yourish v. California Amplifier, 191 F.3d 983, 990-91
- In re Approval of the Judicial Emergency Declared in the Eastern District of California, 956 F.3d 1175
- Sibron v. New York, 392 U.S. 40, 57
- Anderson v. Air W., 542 F.2d 522, 524
- Pagtalunan v. Galaza, 291 F.3d 639, 643-44
- In re Phenylpropanolamine (PPA) Products Liability Litigation, 460 F.3d 1217, 1228
- Wilkerson v. Wheeler, 772 F.3d 834, 839

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