

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WASHINGTON

Toby Masse v. Clark County, et al.

Masse · No. 3:25-cv-05839-TMC · Decided December 12, 2025

SUMMARY

The United States District Court for the Western District of Washington dismissed Toby Masse’s complaint without prejudice for failure to prosecute. The court found that Masse had not amended his complaint by the deadline after the court identified deficiencies and ordered him to do so, and it cited Federal Rule of Civil Procedure 41(b) and related Ninth Circuit authority.

CASE DETAILS

COURT	United States District Court for the Western District of Washington
JURISDICTION	United States District Court for the Western District of Washington
DECIDED	December 12, 2025
DOCKET	3:25-cv-05839-TMC
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court dismissed the pro se plaintiff’s complaint without prejudice after he failed to amend it within the court-ordered deadline or otherwise prosecute the action.
PRECEDENTIAL VALUE	Unknown
PARTIES	Toby Masse v. Clark County, et al.

TOPICS

- civil procedure
- motions to dismiss
- pleadings

PRACTICE AREAS

- civil procedure
- civil rights
- fair housing

QUESTIONS PRESENTED

- Whether the court could dismiss the action sua sponte for failure to prosecute after the plaintiff failed to amend his complaint as ordered.

HOLDINGS

1. A district court may dismiss an action sua sponte without prejudice under Federal Rule of Civil Procedure 41(b) when the plaintiff fails to prosecute or comply with a court order, including an order requiring amendment of a deficient complaint.

KEY QUOTATIONS

“The district judge has an obligation to warn the plaintiff that dismissal is imminent.” (at 2)

FACTUAL BACKGROUND

Pro se plaintiff Toby Masse filed an application to proceed in forma pauperis with a proposed complaint. The court found that the complaint did not state a plausible claim for relief and ordered Masse to amend within 21 days. Masse did not amend, and court orders mailed to his listed address were returned as undeliverable.

PROCEDURAL HISTORY

Masse filed an application to proceed in forma pauperis and a proposed complaint on September 18, 2025. The court granted IFP status, reviewed the complaint under 28 U.S.C. § 1915, found that it failed to state a plausible claim, and granted Masse 21 days to amend. After Masse failed to amend and court mail was returned as undeliverable, the court dismissed the action sua sponte without prejudice for failure to prosecute.

DISPOSITION

dismissed

CASES CITED

- Hells Canyon Pres. Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005)
- Oliva v. Sullivan, 958 F.2d 272, 274 (9th Cir. 1992)
- Carey v. King, 856 F.2d 1439, 1440 (9th Cir. 1988)

OPINION

1 2 3 4 5 UNITED STATES DISTRICT COURT 6 WESTERN DISTRICT OF WASHINGTON
AT TACOMA 7 TOBY MASSE, Case No. 3:25-cv-05839-TMC 8 Plaintiff, ORDER
DISMISSING COMPLAINT 9 WITHOUT PREJUDICE FOR FAILURE TO v. PROSECUTE 10
CLARK COUNTY, et al., 11 Defendants. 12 13 14 On September 18, 2025, pro se plaintiff Toby
Masse filed an application to proceed in 15 forma pauperis (“IFP”) and attached a copy of his
proposed complaint.

Dkts. 1, 1-1. On 16 September 23, 2025, Magistrate Judge Theresa L. Fricke granted Mr. Masse’s
application to 17 proceed IFP but recommended review of the complaint because “it does not
appear Plaintiff has 18 met the criteria for IFP required under 28 U.S.C. § 1915(e)(2)(b).” Dkt. 3 at
1.

On November 3, 19 2025, Judge Fricke’s order—which had been mailed to Mr. Masse’s address in Vancouver, 20 Washington—was returned to the Court as undeliverable. Dkt. 5. 21 On November 5, 2025, the Court reviewed Mr. Masse’s complaint under § 1915 and 22 found that it did not state a plausible claim for relief. Dkt. 6.

The Court outlined the deficiencies 23 24 1 in Mr. Masse’s claims and granted him 21 days to amend the complaint or face dismissal. 2 Dkt. 6 at 4.1 3 The deadline has passed, and Mr. Masse did not amend his complaint.

Therefore, the 4 Court dismisses this case without prejudice for failure to prosecute. See Fed. R. Civ. P. 41(b) 5 (allowing for involuntary dismissal for failure to prosecute or failure to comply with the federal 6 rules or court orders); *Hells Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d 683, 689 (9th 7 Cir. 2005) (courts may dismiss cases sua sponte pursuant to Rule 41(b) for failure to prosecute); 8 *Oliva v. Sullivan*, 958 F.2d 272, 274 (9th Cir.

1992) (“The district judge has an obligation to 9 warn the plaintiff that dismissal is imminent.”). 10 The Clerk is directed to send uncertified copies of this Order to all counsel of record and 11 to any party appearing pro se at said party’s last known address. 12 13 Dated this 12th day of December, 2025. 14 a 15 Tiffany M. Cartwright 16 United States District Judge 17 18 19 20 21 22 23 1 This order was also returned as undeliverable on December 9, 2025.

Dkt. 7. Under Local Rule 41(b)(2), Mr. Masse “bears the burden of keeping the court apprised of any changes in his 24 mailing address.” *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1988).