

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Grigsby v. Hixon

Grigsby · No. 2:24-cv-2488-JDP (P) · Decided July 29, 2025

OPINION

(HC) Grigsby v. Hixon

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 MELVIN JOHN GRIGSBY, Case No. 2:24-cv-2488-JDP (P) 12 Petitioner,

13 v. ORDER; FINDINGS AND

RECOMMENDATIONS

14 KEVIN HIXON,

15 Respondent. 16

17 On June 10, 2025, the court screened the first amended petition and found that it failed to 18
state a claim. The court granted petitioner thirty days to file an amended petition. ECF No. 10. 19
Petitioner did not do so. On June 30, 2025, the court received notice that the order was returned 20
to the court as “undeliverable, parole.” Petitioner has not updated his address or filed an amended
21 petitioner as ordered, and the time to do so has passed. Accordingly, dismissal of the action is
22 warranted. 23 The court has the inherent power to control its docket and may, in the exercise of
that 24 power, impose sanctions where appropriate, including dismissal. *Bautista v. Los Angeles*
Cnty., 25 216 F.3d 837, 841 (9th Cir. 2000); see Local Rule 110 (“Failure of counsel or of a party
to 26 comply with these Rules or with any order of the Court may be grounds for imposition by
the 27 Court of any and all sanctions . . . within the inherent power of the Court.”). 28 A court may
dismiss an action based on a party’s failure to prosecute an action, failure to 1 obey a court order,
or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 2 (9th Cir. 1995)
(dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 3 1260-61 (9th
Cir. 1992) (dismissal for failure to comply with an order to file an amended 4 complaint); *Carey v.*
King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to 5 comply with local rule
requiring pro se plaintiffs to keep court apprised of address); *Malone v. 6 U.S. Postal Serv.*, 833
F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court 7 order); *Henderson v.*
Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of 8 prosecution and failure to
comply with local rules). 9 In recommending that this action be dismissed for failure to comply
with court orders, I 10 have considered “(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 alternatives." Here, petitioner has failed to respond to a court order directing him to file an amended petition. See ECF No. 10. Therefore, the public interest in expeditious resolution of litigation, the court's need to manage its docket, and the risk of prejudice to the respondent all support imposition of the sanction of dismissal. Lastly, my warning to petitioner that failure to obey court orders will result in dismissal satisfies the "considerations of the alternatives" requirement. Specifically, the

June 10 order expressly warned petitioner that his failure to comply with the order may result in

dismissal. ECF No. 10. Petitioner had adequate warning that dismissal could result from his noncompliance. Accordingly, I find that the balance of factors weighs in favor of dismissal. Accordingly, it is hereby ORDERED that the Clerk of Court randomly assign a district judge to this matter. Further, it is hereby RECOMMENDED that: 1. This action be DISMISSED without prejudice for failure to state a claim, failure to prosecute, and failure to comply with court orders for the reasons set forth in the June 10, 2025 order. 2. The Clerk of Court be directed to close the case. These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of service of these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Any such document should be captioned "Objections to Magistrate Judge's Findings and Recommendations," and any response shall be served and filed within fourteen days of service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. See *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 10 1991). IT IS SO ORDERED. (1 ow — Dated: _ July 29, 2025 q——

14 JEREMY D. PETERSON

15 UNITED STATES MAGISTRATE JUDGE

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