

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Martin Lee Foster v. Littles

Foster v. Littles · No. 2:25-CV-2198-DC-DMC-P · Decided December 17, 2025

OPINION

Littles

PER CURIAM.

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8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 MARTIN LEE FOSTER, No. 2:25-CV-2198-DC-DMC-P

12 Plaintiff,

13 v. FINDINGS AND RECOMMENDATIONS

14 LITTLES,

15 Defendant. 16

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 18 42 U.S.C. §
19 1983. 19 On September 23, 2025, the Court directed Plaintiff to resolve the fee status for 20 this
21 case within 30 days. See ECF No. 7 (order granting extension of time). Following Plaintiff's 21
22 notice of change of address, the order granting an extension of time at ECF No. 7 was re-served
23 on Plaintiff at his current address on October 29, 2025. Plaintiff has been warned that failure to
24 resolve the fee status may result in dismissal of this action for lack of prosecution and failure to
25 comply with court rules and orders. See Local Rule 110. To date, Plaintiff has not complied. 25
26 The Court must weigh five factors before imposing the harsh sanction of dismissal. 26 See
27 *Bautista v. Los Angeles County*, 216 F.3d 837, 841 (9th Cir. 2000); *Malone v. U.S. Postal* 27
28 *Service*, 833 F.2d 128, 130 (9th Cir. 1987). Those factors are: (1) the public's interest in 28
29 expeditious resolution of litigation; (2) the Court's need to manage its own docket; (3) the risk of 1
30 | prejudice to opposing parties; (4) the public policy favoring disposition of cases on their merits;
31 2 || and (5) the availability of less drastic sanctions. See *id.*; see also *Ghazali v. Moran*, 46 F.3d 52,
32 3 || 53 (9th Cir. 1995) (per curiam). A warning that the action may be dismissed as an appropriate
33 4 || sanction is considered a less drastic alternative sufficient to satisfy the last factor. See *Malone*,
34 5 || 833 F.2d at 132-33 & n.1. The sanction of dismissal for lack of prosecution is appropriate
35 where 6 || there has been unreasonable delay. See *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th
36 Cir. 7 || 1986). Dismissal has also been held to be an appropriate sanction for failure to comply
37 with an 8 | order to file an amended complaint. See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61

(9th Cir. 9 | 1992). 10 Having considered these factors, and in light of Plaintiffs failure to resolve the fee 11 || status for this case as directed, the Court finds that dismissal of this action is appropriate. 12 Based on the foregoing, the undersigned recommends that this action be dismissed, 13 || without prejudice, for lack of prosecution and failure to comply with court rules and orders. 14 These findings and recommendations are submitted to the United States District 15 || Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days 16 | after being served with these findings and recommendations, any party may file written 17 || objections with the court. Responses to objections shall be filed within 14 days after service of 18 || objections. Failure to file objections within the specified time may waive the right to appeal. See 19 | Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991). 20 21 | Dated: December 17, 2025 = Co
22 DENNIS M. COTA
33 UNITED STATES MAGISTRATE JUDGE
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