

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

**Christopher Lipsey, Jr. v. Lancaster State Prison Warden Lundy, et
al.**

Lipsey v. Lundy · No. 2:24-cv-03716-JLS-JC · Decided September 9, 2025

SUMMARY

The United States District Court for the Central District of California dismissed Christopher Lipsey Jr.'s pro se civil-rights action against Lancaster State Prison officials. The court dismissed the action for failure to state a claim, failure to comply with a prior order, and unreasonable failure to prosecute.

OPINION

JS-6 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT? CENTRAL DISTRICT OF
CALIFORNIA 10 CHRISTOPHER LIPSEY, JR., Case No. 2:24-cv-03716-JLS-JC 11 12 Plaintiff,
MEMORANDUM OPINION AND 13 V. ORDER DISMISSING ACTION 14 LANCASTER
STATE PRISON 15 || WARDEN LUNDY, et al., 16 Defendants. 17) 18 I INTRODUCTION 19
On April 28, 2024, Plaintiff Christopher Lipsey, Jr., who was then in custody at 20 California State
Prison, Los Angeles County (“CSP-LAC”),¹ is proceeding pro se, 21 and has been granted leave
to proceed without prepayment of filing fees (“IFP”), 22 constructively filed a Civil Rights
Complaint “Complaint” or “Comp.”) pursuant to 23 42 U.S.C. § 1983 (“Section 1983”) and
California’s Bane Act, Cal. Civil Code § 52.1 24 5 against the following Defendants: (1) Lundy,
CSP-LAC Warden; (2) Z. Soisuvann, 5 26 || ————— ‘ The inmate locator for the
California Department of Corrections and Rehabilitation 27 (“CDCR”) reflects that Plaintiff is
currently housed at California State Prison, Sacramento.

See 28 <https://ciris.mt.cder.ca.gov/search> (last visited September 4, 2025). 1 || CSP-LAC Captain;
(3) A. Martinez, CSP-LAC Lieutenant; (4) Garcia, CSP-LAC 2 | correctional officer; (5-17) John
Does 1-13, CSP-LAC correctional officers; and 3 (18) unnamed doctor, Palmdale Regional
Hospital.” (Docket No. 1). Warden Lundy 4 || was sued in her individual and official capacities,
and all other Defendants were sued 5 solely in their individual capacities.

(Comp. at 3-4). Liberally construed, the 6 Complaint appeared to claim that Defendants violated
Plaintiffs rights by causing and 7 failing to protect him from serious harm, or otherwise being
deliberately indifferent to 8 || a substantial risk of such harm (construed as claims arising under the
Eighth 9 Amendment), failing to provide adequate remedies for such harms in violation of due 10
process (construed as claims arising under the Fourteenth Amendment), and causing Ly or failing

the new address and its effective date, and Plaintiff was cautioned that his failure to do so may result in a dismissal of the case for want of prosecution.* (March Order at 30 (citing Local Rule 14.1-6)).

The March Order expressly cautioned Plaintiff that the failure timely to file a First Amended Complaint, a notice of dismissal, or a notice of intent to stand on the Complaint may be deemed Plaintiff's admission that such response and/or amendment is futile and may result in the dismissal of this action on the grounds set forth in the March Order, on the ground that amendment is futile, for failure to prosecute diligently, and/or for failure to comply with the March Order.

(March Order at 30). The March Order called for Plaintiff to respond thereto by March 27, 2025. However, the Court subsequently learned that, due to a clerical error, the March Order 23 || ————— > Because Plaintiff had already accumulated more than three strikes before he initiated this 24 || action, Plaintiff cannot proceed IFP in this case unless he plausibly alleges that he was “under imminent danger of serious physical injury” when he filed the Complaint.

Andrews v. Cervantes, 25 || 493 F.3d at 1052-53; 28 U.S.C. § 1915(g). 26 * Plaintiff previously was advised of this obligation in a Notice of Judge Assignment and Reference to a United States Magistrate Judge (Docket No. 5), issued on May 9, 2024, and in an 27 || Initial Order Re: Pro Se Civil Rights Cases (Docket No. 7), issued on June 12, 2024. Neither of those documents were returned to the Court and are therefore presumed to have been received by 28 || Plaintiff.

3. 1 || had not in fact been mailed promptly to Plaintiff at the California State Prison, 2 || Sacramento, where he then resided and continues to reside. To rectify this error, on 3 April 18, 2025, the March Order was mailed to Plaintiff at his correct address, and 4 || Plaintiff's deadline to respond to and comply with the March Order was sua sponte 5 || extended to May 8, 2025.

(Docket No. 14). 6 To date, Plaintiff has failed to respond to or comply with the March Order in 7 any respect, and has not sought an extension of time to do so. As discussed below, 8 || this action is dismissed due to Plaintiff's failure to state a claim for relief, his failure to 9 prosecute diligently, and his failure to comply with the March Order. 10 | 11. =PERTINENT LAW It is well-established that a district court may sua sponte dismiss an action 12 || where the plaintiff has failed to comply with a court order and/or unreasonably failed 13 | to prosecute.

See *Link v. Wabash R.R.*, 370 U.S. 626, 629-33 (1962); *Ferdik v. 14 | Bonzelet*, 963 F.2d 1258, 1260 (9th Cir.) (as amended), cert. denied, 506 U.S. 915 15 (1992); see also *McKeever v. Block*, 932 F.2d 795, 797 (9th Cir. 1991) (district court 16 may sua sponte dismiss action “only for an unreasonable failure to prosecute” 7 (citations omitted)); see also *Edwards v. Marin Park, Inc.*, 356 F.3d 1058, 1065 (9th Cir. 2004) (sua sponte dismissal pursuant to Fed.

R. Civ. P. 41(b) proper sanction in 19 cases where a plaintiff is notified of deficiencies in complaint and is given “the 20 opportunity to amend [the complaint] or be dismissed” but the plaintiff “[does] 21 nothing” (citations omitted; emphasis in original)). 22 In determining whether to dismiss an action for failure to prosecute or failure to 23 comply with court orders, a district court must consider several factors, namely (1) the 24 public’s interest in expeditious resolution of litigation; (2) the court’s need to manage 25 its docket; (3) the risk of prejudice to defendants; (4) the public policy favoring 26 disposition of cases on their merits; and (5) the availability of less drastic alternatives.

27 See *In re Eisen*, 31 F.3d 1447, 1451 (9th Cir. 1994) (failure to prosecute); *Ferdik*, 963 F.2d at 1260-61 (failure to comply with court orders). Dismissal is appropriate under 2 || the foregoing analysis “where at least four factors support dismissal... or where at 3 || least three factors ‘strongly’ support dismissal.” *Hernandez v. City of El Monte*, 138 F.3d 393, 399 (9th Cir.

1998) (citations omitted). 5 Where a plaintiff is proceeding pro se, however, the court must first notify the 6 plaintiff of the deficiencies in the complaint so that the plaintiff has an opportunity “to 7 | amend effectively.” *Ferdik*, 963 F.2d at 1261 (citation omitted). A district judge may 8 || not dismiss an action for failure to comply with a court order or for unreasonable 9 | failure to prosecute if the initial decision to dismiss a complaint was erroneous.

10 || *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (citing *McKeever*, 932 F.2d at 797). 12 | I. DISCUSSION AND ORDER 13 First, as explained in the March Order, the Complaint fails to state a claim for 14 | relief against any Defendant.

The March Order explained in detail what Plaintiff 13 | needed to do to cure the deficiencies in his pleading, ordered Plaintiff to respond to 16 | the March Order by filing a First Amended Complaint which cured the identified 7 pleading defects, or filing a notice of dismissal, or filing a notice of intent to stand on 18 | the Complaint, and cautioned Plaintiff that his failure timely to respond to the March 19 | Order may be deemed his admission that amendment is futile and may result in the 20 dismissal of this action on the grounds identified in the March Order, on the ground 21 | that amendment is futile, for failure to prosecute diligently, and/or for failure to 22 comply with the March Order.

In light of Plaintiffs failure to file a response to the 23 March Order as expressly directed, this Court deems such failure Plaintiff's admission 24 that amendment of the Complaint is futile and concludes that Plaintiff is unable or 25 unwilling to draft a complaint that states viable claims for relief. See, e.g., *Knapp v. 26 | Hogan*, 738 F.3d 1106, 1110 (9th Cir.

2013) (“When a litigant knowingly and 27 repeatedly refuses to conform his pleadings to the requirements of the Federal Rules, 28 5. 1 || it is reasonable to conclude that the litigant simply

cannot state a claim.” (emphasis in 2 original)), cert. denied, 574 U.S. 815 (2014).

Accordingly, dismissal of the instant 3 || action based upon Plaintiff's failure to state a claim is appropriate. 4 Second, dismissal is appropriate based upon Plaintiff's failure to comply with 5 || the March Order and the failure to prosecute.

The Court has considered the five 6 | factors discussed above — the public’s interest in expeditious resolution of litigation, 7 || the Court’s need to manage its docket, the risk of prejudice to Defendants, the public 8 policy favoring disposition of cases on their merits, and the availability of less drastic 9 || alternatives.

The first two factors — the public’s interest in expeditiously resolving 10 |) this litigation and the Court’s interest in managing the docket — strongly weigh in 11 |) favor of dismissal. As noted above, Plaintiff has been notified of the deficiencies in 12 |! the Complaint and has been given the opportunity to amend it, to dismiss it, or to 13 notify the Court that he wishes to stand thereon.

He has not done so. The third factor, 14 | tisk of prejudice to Defendants, also weighs strongly in favor of dismissal. See 13 | Anderson v. Air West, Inc., 542 F.2d 522, 524 (9th Cir. 1976) (prejudice to 16 || defendants presumed from unreasonable delay (citation omitted)).

The fourth factor, 17 | the public policy favoring disposition of cases on their merits, is greatly outweighed 18 by the factors in favor of dismissal discussed herein. As for the fifth factor, since 19 | plaintiff has already been cautioned of the consequences of his failure to prosecute 20 |) and his failure to comply with the March Order, and Plaintiff has been afforded the 21 opportunity to avoid such consequences but has not responded, no sanction lesser than 22 dismissal is feasible.

See, e.g., Yourish, 191 F.3d at 989 (dismissal of action with 23 prejudice not excessive sanction for plaintiffs’ failure timely to comply with court’s 24 order to submit an amended complaint). 29 fii 26 Fy iy 28 6. IT IS THEREFORE ORDERED that this action is dismissed based upon 2 | Plaintiff's failure to state a claim, his unreasonable failure to prosecute, and his failure 3)! to comply with the March Order.

4 IT IS SO ORDERED. 5 || DATED: September 9, 2025 6 2 oa 1l Fh 8 HONORABLE JOSEPHINE L. STATON 9 UNITED STATES DISTRICT JUDGE 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 7.