

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Macey E. Turley, Jr. v. Elmante

Turley v. Elmante · No. 1:23-cv-00596-JLT-CDB (PC) · Decided January 8, 2026

SUMMARY

The United States District Court for the Eastern District of California issued Findings and Recommendations recommending dismissal without prejudice of Macey E. Turley, Jr.’s § 1983 action against Elmante. The recommendation is based on the plaintiff’s failure to respond to a motion for summary judgment, comply with a show-cause order, obey court orders and local rules, and prosecute the action. The document provides a 14-day period for objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	January 8, 2026
DOCKET	1:23-cv-00596-JLT-CDB (PC)
DISPOSITION	remanded
PROCEDURAL POSTURE	Findings and recommendations by a United States magistrate judge recommending dismissal without prejudice of a pro se prisoner's 42 U.S.C. § 1983 action for failure to prosecute and failure to obey court orders and local rules.
STANDARD OF REVIEW	The court weighed the Ninth Circuit's five factors for dismissal for lack of prosecution: the public's interest in expeditious resolution, the court's need to manage its docket, the risk of prejudice to defendants, the public policy favoring disposition on the merits, and the availability of less drastic sanctions.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- sanctions
- civil procedure
- summary judgment
- section 1983
- prisoners rights

PRACTICE AREAS

- Civil procedure
- Prisoner civil rights
- Federal courts
- Sanctions

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice because Plaintiff failed to prosecute the action.
2. Whether Plaintiff's failure to comply with the court's show-cause order, the deadline for responding to Defendant's summary-judgment motion, and applicable local rules warranted dismissal as a sanction.

HOLDINGS

1. A district court may exercise its inherent docket-control power to impose sanctions, including dismissal, when a party fails to prosecute, obey a court order, or comply with local rules.
2. Dismissal without prejudice was warranted because all five relevant factors favored dismissal: expeditious resolution, docket management, prejudice to Defendant, disposition on the merits, and the availability of less drastic sanctions.

KEY QUOTATIONS

“In determining whether to dismiss an action for lack of prosecution, the district court is required to weigh several 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 3)

“Any failure by Plaintiff to respond to this Order will result in a recommendation to dismiss this action for failure to obey court orders and failure to prosecute.” (at 5)

FACTUAL BACKGROUND

Plaintiff's action proceeds on Eighth Amendment claims concerning adverse conditions of confinement and deliberate indifference against Defendant Elmante. Defendant filed a motion for summary judgment on November 7, 2025, but Plaintiff did not file an opposition or statement of non-opposition by the deadline. Plaintiff also failed to respond to a December 5, 2025 order directing him to show cause or alternatively respond to the summary-judgment motion, despite an express warning that noncompliance would result in a recommendation of dismissal.

PROCEDURAL HISTORY

Plaintiff filed an Eighth Amendment civil-rights action proceeding pro se and in forma pauperis. Defendant answered, the court entered a discovery and scheduling order, and Defendant later filed a motion for summary judgment. Plaintiff failed to oppose the motion, file a statement of non-opposition, seek an extension, or respond to the court's subsequent order to show cause. The magistrate judge recommended dismissal without prejudice and closure of the case, subject to objections and review by the assigned district judge under 28 U.S.C. § 636(b) (1).

DISPOSITION

remanded

REMAND INSTRUCTIONS

No remand to a lower court was ordered. The magistrate judge recommended that the assigned district judge dismiss the action without prejudice and direct the Clerk to close the case, subject to the parties' 14-day objection period and district-judge review under 28 U.S.C. § 636(b)(1).

CASES CITED

- *Bautista v. Los Angeles County*, 216 F.3d 837, 841 (9th Cir. 2000)
- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-62 (9th Cir. 1992)
- *Malone v. U.S. Postal Service*, 833 F.2d 128, 130-31 (9th Cir. 1987)
- *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986)
- *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
- *In re Phenylpropanolamine (PPA) Products Liability Litigation*, 460 F.3d 1217, 1226, 1228 (9th Cir. 2006)
- *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976)
- *Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th Cir. 2002)
- *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014)

OPINION

1 2 3 4 5 UNITED STATES DISTRICT COURT 6 EASTERN DISTRICT OF CALIFORNIA 7 8
MACEY E. TURLEY, JR., Case No. 1:23-cv-00596-JLT-CDB (PC) 9 Plaintiff, FINDINGS AND
RECOMMENDATIONS TO DISMISS ACTION WITHOUT 10 v. PREJUDICE FOR
PLAINTIFF'S FAILURE TO PROSECUTE AND TO OBEY COURT 11 ELMANTE, ORDERS
AND LOCAL RULES 12 Defendant. (Doc. 39) 13 14-DAY OBJECTION PERIOD 14 Plaintiff
Macey E. Turley, Jr. is proceeding pro se and in forma pauperis in this civil rights 15 action
pursuant to 42 U.S.C. § 1983.

This action proceeds on Plaintiff's Eighth Amendment claims 16 for adverse conditions of
confinement and deliberate indifference against Defendant Elmante. 17 (Docs. 1, 11). On March 9,
2024, Defendant filed an answer to Plaintiff's complaint. (Doc. 17). 18 On December 5, 2024, the
Court issued the discovery and scheduling order setting forth discovery 19 dates and deadlines.

(Doc. 34). On October 14, 2025, the Court granted Defendant's ex parte 20 motion to amend the
scheduling order and continued the deadline to file dispositive motions to 21 November 7, 2025.
(Doc. 37). On November 7, 2025, Defendant filed the pending motion for 22 summary judgment,
making Plaintiff's response due on November 28, 2025, plus time for mailing. 23 (Doc.

38). 24 After the deadline by which Plaintiff was required to respond to Defendant's motion for 25
summary judgment passed and Plaintiff had not filed any response, sought an extension, or 26
otherwise explained the delinquency, on December 5, 2025, the Court ordered Plaintiff to show 27
cause in writing within 14 days of service of the order (i.e., by December 22, 2025, see Fed.

R. Civ. P. 6(d)) why sanctions should not be imposed for his failure to file an opposition or statement of non-opposition to Defendant's pending motion. (Doc. 39). Plaintiff was provided the opportunity to comply in the alternative by filing within that same time an opposition or statement of non-opposition to Defendant's pending motion. *Id.* at 3. Plaintiff was forewarned that "[a]ny failure by Plaintiff to respond to this Order will result in a recommendation to dismiss this action for failure to obey court orders and failure to prosecute." *Id.* (emphasis original).

Plaintiff has failed to file a response to the Court's show cause order or an opposition or statement of non-opposition to Defendant's pending motion for summary judgment, and the time to do so has passed. Accordingly, the undersigned will recommend that this action be dismissed without prejudice for Plaintiff's failure to obey a court order and to prosecute this action.

Governing Authority Local Rule 110, corresponding with Federal Rule of Civil Procedure 11, provides that "[f]ailure of counsel or of a party to comply with these Rules or with any order of the Court may be grounds for imposition by the Court of any and all sanctions... within the inherent power of the Court." Local Rule 110.

The Court has the inherent power to control its docket and may, in the exercise of that power, impose sanctions where appropriate, including dismissal of the action. *Bautista v. Los Angeles Cnty.*, 216 F.3d 837, 841 (9th Cir. 2000). A court may dismiss an action based on a party's failure to prosecute an action, obey a court order, or comply with local rules.

See, e.g., *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with a court order to amend a complaint); *Malone v. U.S. Postal Service*, 833 F.2d 128, 20 130-31 (9th Cir. 1987) (dismissal for failure to comply with a court order); *Henderson v. Duncan*, 21 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to prosecute and to comply with local 22 rules).

Relevant here, Local Rule 230(l) provides in relevant part that in all motions wherein one party is incarcerated and proceeding in *pro pria persona*, opposition thereto, "if any, to the granting of the motion shall be served and filed by the responding party not more than twenty-one (21) days after the date of service of the motion. A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect, specifically designating the motion in 1 may be deemed a waiver of any opposition to the granting of the motion and may result in the 2 imposition of sanctions." See Local Rule 230(l).

3 "In determining whether to dismiss an action for lack of prosecution, the district court is 4 required to weigh several factors: (1) the public's interest in expeditious resolution of litigation; (2) 5 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.” *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir.

1988) (internal quotation marks & citation omitted). These factors guide a court in deciding what to do and are not conditions that must be met in order for a court to take action. In *re Phenylpropanolamine (PPA) Products Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006) (citation omitted). Here, Plaintiff has failed to comply with the Court’s orders and Local Rules.

Plaintiff has filed no response to the Court’s order to show cause nor an opposition or statement of non-opposition to Defendant’s pending motion for summary judgment, and the time to do so has passed. There are no other reasonable alternatives available to address Plaintiff’s failure to respond and otherwise obey this Court’s orders and Plaintiff’s failure to prosecute.

Thus, the first and second factors — the expeditious resolution of litigation and the Court’s need to manage its docket — weigh in favor of dismissal. *Carey*, 856 F.2d at 1440. The third factor, risk of prejudice to Defendant, also weighs fairly in favor of dismissal since a presumption of injury arises from the occurrence of unreasonable delay in prosecuting an action.

See *Anderson v. Air W.*, 542 F.2d 522, 524 (9th Cir. 1976). This matter cannot proceed further without Plaintiff’s participation to prosecute the case respond to the pending motion for summary judgment filed on November 7, 2025. (Doc. 38).

The presumption of injury holds given Plaintiff’s unreasonable delay in prosecuting this action. Thus, the third factor—a risk of prejudice to the Defendant—also weighs in favor of dismissal. *Carey*, 856 F.2d at 1440. The fourth factor usually weighs against dismissal because public policy favors disposition on the merits. *Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th Cir.

2002). However, “this factor merits but whose conduct impedes progress in that direction.” In *re PPA*, 460 F.3d at 1228. Plaintiff has not moved this case forward toward disposition on the merits. He has instead failed to comply with this Court’s orders and the Local Rules and, thus, is impeding the progress of this action. More than 60 days have passed since Defendant filed its pending motion for summary judgment, and more than one month since the Court issued its show cause order on Plaintiff, yet Plaintiff has failed to file a response in compliance with the Court’s order.

Therefore, the fourth factor—the public policy favoring disposition of cases on their merits—also weighs in favor of dismissal. *Carey*, 856 F.2d at 1440. Finally, the Court’s warning to a party that failure to obey the court’s order will result in dismissal satisfies the “considerations of the alternatives” requirement. *Ferdik*, 963 F.2d at 1262. Here, the Court’s show cause order requiring a response from Plaintiff cautioned: “Any failure by Plaintiff to respond to this Order

will result in a recommendation to dismiss this action for 13 failure to obey court orders and failure to prosecute.” (Doc.

39 at 3) (emphasis original). 14 Plaintiff was adequately forewarned that the failure to timely respond to the show cause order would 15 result in terminating sanctions. Thus, the fifth factor—the availability of less drastic sanctions — 16 weighs in favor of dismissal. Ferdik, 963 F.2d at 1262; Carey, 856 F.2d at 1440. 17 In sum, Plaintiff has failed to comply with this Court’s order and the Local Rules, and in 18 doing so, has failed to prosecute this action.

Having weighed the equities and considered the 19 relevant factors noted above, the undersigned concludes that dismissal of the action is warranted. 20 21 22 Remainder of This Page Intentionally Left Blank 23 24 25 26 27 1 Conclusion and Recommendation 2 For the foregoing reasons, the undersigned RECOMMENDS that: 3 1.

The Court DISMISS this action without prejudice for Plaintiffs failure to obey the Court’s 4 orders and Local Rules and for failure to prosecute this action. See Local Rules 110, □□□□□□ 5 2. The Clerk of the Court be DIRECTED to close this case. 6 These Findings and Recommendations will be submitted to the United States District Judge 7 | assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).

Within 14 days after 8 | being served with a copy of these Findings and Recommendations, a party may file written 9 | objections with the Court. Local Rule 304(b). The document should be captioned, “Objections to 10 | Magistrate Judge’s Findings and Recommendations” and shall not exceed 15 pages without leave 11 | of Court and good cause shown.

The Court will not consider exhibits attached to the Objections, 12 | but a party may refer to exhibits in the record by CM/ECF document and page number. Any pages 13 | filed in excess of the 15-page limitation may be disregarded by the District Judge when reviewing 14 | these Findings and Recommendations under 28 U.S.C. § 636(b)(1)(C). A party’s failure to file any 15 | objections within the specified time may result in the waiver of certain rights on appeal.

Wilkerson 16 | v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014). 17 | IT IS SO ORDERED. 18 Dated: _ January 7, 2026 |) Ww Vv R~ 19 UNITED STATES MAGISTRATE JUDGE 20 21 22 23 24 25 26 27 28