

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Evans v. Cisneros

Evans · No. 1:22-cv-01238-KES-BAM (PC) · Decided April 1, 2025

SUMMARY

The court recommends dismissing Cleveland Evans’s § 1983 and RLUIPA action without prejudice for failure to obey a court order and failure to prosecute. The recommendation follows Plaintiff’s failure to submit a non-prisoner in forma pauperis application after being ordered and warned that noncompliance could result in dismissal.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Barbara A. McAuliffe
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 1, 2025
DOCKET	1:22-cv-01238-KES-BAM (PC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal without prejudice for failure to obey a court order and failure to prosecute.
STANDARD OF REVIEW	The court applied the Ninth Circuit's five-factor test for dismissal for failure to prosecute or failure to obey a court order: the public interest in expeditious resolution, the court's need to manage its docket, prejudice to defendants, the policy favoring disposition on the merits, and the availability of less drastic sanctions.
PRECEDENTIAL VALUE	Unpublished, nonprecedential magistrate judge findings and recommendations
PARTIES	Cleveland Evans v. Cisneros, et al.

TOPICS

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

PRACTICE AREAS

Civil procedure

Prisoner civil rights

Federal courts

Sanctions and dismissal

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice because plaintiff failed to obey the court's order requiring a non-prisoner in forma pauperis application or payment of the filing fee.
2. Whether dismissal without prejudice was warranted under the factors governing dismissal for failure to prosecute and failure to obey a court order.

HOLDINGS

1. A district court may dismiss an action, including without prejudice, when a party fails to prosecute, fails to obey a court order, or fails to comply with applicable local rules, subject to consideration of the governing dismissal factors.
2. Dismissal without prejudice was appropriate because plaintiff failed to comply with the court's order, the first three dismissal factors favored dismissal, the merits factor provided little support in light of plaintiff's conduct, and lesser sanctions were inadequate.

KEY QUOTATIONS

“In determining whether to dismiss an action, the Court must consider 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 2)

“Accordingly, the Court finds that dismissal is the appropriate sanction and HEREBY RECOMMENDS that this action be dismissed, without prejudice, for failure to obey a Court order and for Plaintiff’s failure to prosecute this action.” (at 3)

FACTUAL BACKGROUND

Evans, a former state prisoner proceeding pro se and in forma pauperis, asserted First Amendment claims under 42 U.S.C. § 1983 and claims under RLUIPA. After he was released from custody, defendants sought revocation of his prisoner in forma pauperis status. The court ordered Evans to submit a non-prisoner in forma pauperis application within thirty days or otherwise address the filing fee, expressly warning that failure to comply could result in dismissal. Although the order was re-served after Evans changed his address, he did not respond by the deadline or otherwise communicate with the court.

PROCEDURAL HISTORY

Evans brought a pro se, in forma pauperis civil-rights action under 42 U.S.C. § 1983. After Evans was released from custody, defendants moved to revoke his prisoner in forma pauperis status, and the court directed him to submit a non-prisoner in forma pauperis application or otherwise comply with the filing-fee requirements. The court re-served that order after Evans changed his address and warned that noncompliance would result in

dismissal. Evans missed the deadline and did not otherwise communicate with the court, leading the magistrate judge to recommend dismissal without prejudice.

DISPOSITION

dismissed

CASES CITED

- Thompson v. Housing Authority, 782 F.2d 829, 831 (9th Cir. 1986)
- Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61, 1262 (9th Cir. 1992)
- Malone v. U.S. Postal Service, 833 F.2d 128, 130-33 (9th Cir. 1987)
- Henderson v. Duncan, 779 F.2d 1421, 1423-24 (9th Cir. 1986)
- Carey v. King, 856 F.2d 1439, 1440 (9th Cir. 1988)
- Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976)
- Pagtalunan v. Galaza, 291 F.3d 639, 643 (9th Cir. 2002)
- In re Phenylpropanolamine (PPA) Products Liability Litigation, 460 F.3d 1217, 1228 (9th Cir. 2006)
- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)

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