

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

Hampton v. Alkire

Hampton · No. No. 2:22-CV-1418-DCJ-DMC-P · Decided June 18, 2025

OPINION

(PC) Hampton v. Alkire

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 GARY G. HAMPTON, JR., No. 2:22-CV-1418-DCJ-DMC-P

12 Plaintiff,

13 v. FINDINGS AND RECOMMENDATIONS

14 ALKIRE, et al., 15 Defendants. 16 17 Plaintiff, a prisoner proceeding pro se, brings this civil
rights action pursuant to 18 42 U.S.C. § 1983. 19 On January 21, 2025, the Court directed Plaintiff
to file an amended complaint 20 within 30 days. Plaintiff was warned that failure to file an
amended complaint may result in 21 dismissal of this action for lack of prosecution and failure to
comply with court rules and orders. 22 See Local Rule 110. To date, Plaintiff has not complied. 23
The Court must weigh five factors before imposing the harsh sanction of dismissal. 24 See
Bautista v. Los Angeles County, 216 F.3d 837, 841 (9th Cir. 2000); Malone v. U.S. Postal 25
Service, 833 F.2d 128, 130 (9th Cir. 1987). Those factors are: (1) the public's interest in 26
expeditious resolution of litigation; (2) the court's need to manage its own docket; (3) the risk of
27 prejudice to opposing parties; (4) the public policy favoring disposition of cases on their
merits; 28 and (5) the availability of less drastic sanctions. See id.; see also Ghazali v. Moran, 46
F.3d 52, 1 ¶ 53 (9th Cir. 1995) (per curiam). A warning that the action may be dismissed as an
appropriate 2 ¶ sanction is considered a less drastic alternative sufficient to satisfy the last factor.
See Malone, 3 ¶ 833 F.2d at 132-33 ¶ 1. The sanction of dismissal for lack of prosecution is
appropriate where 4 ¶ there has been unreasonable delay. See Henderson v. Duncan, 779 F.2d
1421, 1423 (9th Cir. 5 ¶ 1986). Dismissal has also been held to be an appropriate sanction for
failure to comply with an 6 ¶ order to file an amended complaint. See Ferdik v. Bonzelet, 963 F.2d
1258, 1260-61 (9th Cir. 7 ¶ 1992). 8 Having considered these factors, and in light of Plaintiff's
failure to file an 9 ¶ amended complaint as directed, the Court finds that dismissal of this action is
appropriate. 10 Based on the foregoing, the undersigned recommends that this action be
dismissed, 11 ¶ without prejudice, for lack of prosecution and failure to comply with court rules

and orders. 12 These findings and recommendations are submitted to the United States District 13
|| Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(I). Within 14 days
14 | after being served with these findings and recommendations, any party may file written 15 ||
objections with the court. Responses to objections shall be filed within 14 days after service of 16
|| objections. Failure to file objections within the specified time may waive the right to appeal. See
17 || Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991). 18 19 || Dated: June 17, 2025 Co
20 DENNIS M. COTA
7] UNITED STATES MAGISTRATE JUDGE
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