

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Raymond E. Moore, Jr. v. Butte County, et al.

Moore v. Butte County · No. 2:22-cv-1517-DJC-JDP (P) · Decided January 7, 2026

SUMMARY

A United States magistrate judge recommends dismissing the action without prejudice because the plaintiff failed to prosecute, comply with court orders, and respond to an order to show cause. The recommendation applies the Ninth Circuit’s factors governing dismissal for failure to prosecute and failure to obey court orders, and directs the Clerk of Court to close the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	January 7, 2026
DOCKET	2:22-cv-1517-DJC-JDP (P)
DISPOSITION	other
PROCEDURAL POSTURE	Magistrate judge findings and recommendations recommending dismissal without prejudice for failure to prosecute and failure to comply with court orders.
STANDARD OF REVIEW	Dismissal for failure to prosecute or failure to comply with court orders is evaluated under the court's inherent docket-management authority and the five Ferdik factors: the public interest in expeditious resolution, the court's need to manage its docket, the risk of prejudice to defendants, the public policy favoring decisions on the merits, and the availability of less drastic alternatives.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- sanctions
- civil procedure
- service of process

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice for plaintiff's failure to prosecute.
2. Whether the action should be dismissed without prejudice for plaintiff's failure to comply with court orders.
3. Whether the Ferdik factors and the availability of less drastic alternatives supported dismissal.

HOLDINGS

1. A federal court may dismiss an action for failure to prosecute, failure to obey a court order, or failure to comply with local rules under its inherent power to control its docket and impose sanctions.
2. Dismissal without prejudice was warranted because plaintiff repeatedly failed to comply with court orders despite an express warning, and the relevant dismissal factors favored dismissal.

KEY QUOTATIONS

"The court has the inherent power to control its docket and may, in the exercise of that power, impose sanctions where appropriate, including dismissal." (at 1)

"In recommending that this action be dismissed for failure to prosecute and failure to comply with court orders, I have considered "(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 alternatives."" (at 2)

"Therefore, the public interest in expeditious resolution of litigation, the court's need to manage its docket, and the risk of prejudice to the defendant all cut in favor of the sanction of dismissal." (at 2)

FACTUAL BACKGROUND

Plaintiff failed to respond to an order directing him either to have defendant Shoemaker re-served or to seek her entry of default. After that noncompliance, plaintiff also failed to respond to an order requiring him to show cause why the action should not be dismissed and to comply with the earlier order. The court had expressly warned that failure to respond or comply with court orders could result in dismissal.

PROCEDURAL HISTORY

The court previously notified plaintiff of a potential service problem concerning defendant Shoemaker and directed plaintiff either to have the United States Marshals Service re-serve Shoemaker or seek entry of default. After plaintiff failed to respond, the court ordered him to show cause why the action should not be dismissed and to respond to the prior order. Plaintiff again failed to respond, and the magistrate judge recommended dismissal without prejudice and closure of the case, subject to review by the assigned district judge under 28 U.S.C. § 636(b)(1).

DISPOSITION

CASES CITED

- *Bautista v. Los Angeles Cnty.*, 216 F.3d 837, 841 (9th Cir. 2000)
- *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995)
- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
- *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130, 132-33 (9th Cir. 1987)
- *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986)
- *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998)
- *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 RAYMOND E. MOORE, JR., Case No. 2:22-cv-1517-DJC-JDP (P) 12
Plaintiff, 13 v. FINDINGS AND RECOMMENDATIONS 14 BUTTE COUNTY, et al., 15
Defendants. 16 17 On July 30, 2025, I notified plaintiff to a potential issue with defendant
Shoemaker's 18 service and directed him to either have the USM re-serve Shoemaker or seek her
entry of default.

19 ECF No. 68. Plaintiff did not respond to that order, therefore, on November 18, 2025, I ordered
20 plaintiff, within fourteen days, (1) to show cause why this action should not be dismissed for
his 21 failure to prosecute and (2) to respond to the court's July 30, 2025 order. ECF No. 70. I also
22 warned plaintiff that his failure to respond would constitute a failure to comply with a court
order 23 and would result in dismissal of this case.

Plaintiff has not responded, and the time to do so has 24 passed. Accordingly, dismissal is
warranted. 25 The court has the inherent power to control its docket and may, in the exercise of
that 26 power, impose sanctions where appropriate, including dismissal. *Bautista v. Los Angeles*
Cnty., 27 216 F.3d 837, 841 (9th Cir. 2000); see Local Rule 110 ("Failure of counsel or of a party
to 28 comply with these Rules or with any order of the Court may be grounds for imposition by
the 1 Court of any and all sanctions... within the inherent power of the Court.").

2 A court may dismiss an action based on a party's failure to prosecute an action, failure to 3 obey
a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 4 (9th
Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 5
1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order to file an amended 6
complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir.

1988) (dismissal for failure to 7 comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. 8 U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court 9 order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of 10 prosecution and failure to comply with local rules).

11 In recommending that this action be dismissed for failure to prosecute and failure to 12 comply with court orders, I have considered “(1) the public’s interest in expeditious resolution of 13 litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; 14 (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less 15 drastic alternatives.” *Ferdik*, 963 F.2d at 1260-61 (citation omitted).

16 Plaintiff has failed to respond to a court order directing him to re-serve Shoemaker or seek 17 entry of default. ECF No. 68. After plaintiff failed to comply with that order, the court ordered 18 him to show cause why this action should not be dismissed for failure to comply with court orders 19 and failure to prosecute. ECF No. 70. Plaintiff also failed to comply with that order.

Therefore, 20 the public interest in expeditious resolution of litigation, the court’s need to manage its docket, 21 and the risk of prejudice to the defendant all cut in favor of the sanction of dismissal. My 22 warning to plaintiff that failure to obey court orders will result in dismissal satisfies the 23 “considerations of the alternatives” requirement.¹ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 at 132-24 33; *Henderson*, 779 F.2d at 1424.

Plaintiff had adequate warning that dismissal could result from 25 his noncompliance. Accordingly, I find that the balance of factors weighs in favor of dismissal. 26 27 1 The November 18 order expressly warned plaintiff that his failure to comply with court 28 orders would result in dismissal. ECF No. 70. 1 Accordingly, it is hereby RECOMMENDED that: 2 1. This action be DISMISSED without prejudice for failure to prosecute and failure to 3 | comply with court orders for the reasons set forth in the July 30, 2025 order.

4 2. The Clerk of Court be directed to close the case. 5 These findings and recommendations are submitted to the United States District Judge 6 | assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of 7 | service of these findings and recommendations, any party may file written objections with the 8 | court and serve a copy on all parties.

Any such document should be captioned “Objections to 9 | Magistrate Judge’s Findings and Recommendations,” and any response shall be served and filed 10 | within fourteen days of service of the objections. The parties are advised that failure to file 11 | objections within the specified time may waive the right to appeal the District Court’s order. See 12 | *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir.

1998); *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 13 1991). 14 1s IT IS SO ORDERED. 16 | q Sty
— Dated: _ January 7, 2026 q—— 17 JEREMY D. PETERSON 18 UNITED STATES

