

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Estrada v. Duran

Estrada · No. 1:23-cv-0609 JLT GSA (PC) · Decided May 22, 2025

OPINION

(PC) Estrada v. Duran

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 RUDOLPH F. ESTRADA, Case No. 1:23-cv-0609 JLT GSA (PC) 12 Plaintiff, ORDER
DISMISSING THE ACTION

WITHOUT PREJUDICE FOR PLAINTIFF’S

13 v. FAILURE TO PROSECUTE, TERMINATING

THE PENDING RECOMMENDATIONS AS

14 RUSSELL DURAN, et al., MOOT, AND DIRECTING THE CLERK OF

COURT TO CLOSE THE CASE

15 Defendants. (Doc. 10) 16 17 Rudolph Estrada initiated this action by filing a complaint,
seeking to hold the defendant 18 liable for a violation of his civil rights while in housed at the
Fresno County Jail. (Doc. 1.) The 19 Court recently attempted written communications with
Plaintiff, which the U.S. Postal Service 20 returned as “Undeliverable, Return to Sender,
Attempted-Not Known, Unable to Forward, Not in 21 Custody” on March 24, 2025. 22 Plaintiff is
obligated to keep the Court informed of a proper mailing address pursuant to 23 Local Rule
183(b), which provides: 24 A party appearing in propria persona shall keep the Court and
opposing parties advised as to his or her current address. If mail 25 directed to a plaintiff in
propria persona by the Clerk is returned by the U.S. Postal Service, and if such plaintiff fails to
notify the Court 26 and opposing parties within thirty (30) days thereafter of a current address, the
Court may dismiss the action without prejudice for 27 failure to prosecute. 28 Id. Because more
than 30 days have passed since the Postal Service returned the Court’s mail on

1 March 24, 2025, Plaintiff failed to comply with Local Rule 183(b). Thus, “the Court may
dismiss

2 the action without prejudice for failure to prosecute.” Id.; see also *Henderson v. Duncan*, 779 3
F.2d 1421, 1424 (9th Cir. 1986) (dismissal proper for failure to prosecute and comply with local 4
rules of court); *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for failure to 5
comply with local rules). 6 To determine whether to dismiss an action for failure to prosecute, the

Court must 7 consider several factors, including: “(1) the public’s interest in expeditious resolution of 8 litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) 9 the public policy favoring disposition of cases on their merits; and (5) the availability of less 10 drastic sanctions.” Henderson, 779 F.2d at 1424; see also *Ferdik v. Bonzelet*, 963 F.2d 1258, 11 1260-61 (9th Cir. 1992) (identifying the same factors). 12 In this matter, the public’s interest in expeditiously resolving the litigation and the Court’s 13 interest in managing the docket weigh in favor of dismissal. See *Yourish v. Cal. Amplifier*, 191 14 F.3d 983, 990 (9th Cir. 1999) (“The public’s interest in expeditious resolution of litigation always 15 favors dismissal”); *Ferdik*, 963 F.2d at 1261 (recognizing that district courts have inherent 16 interest in managing their dockets without being subject to noncompliant litigants). This Court 17 cannot, and will not hold, this case in abeyance where a litigant fails to keep it informed of a 18 proper mailing address for written communications. Thus, these factors weigh in favor of 19 dismissal of the action. 20 To determine whether the defendant suffer prejudice, the Court must “examine whether 21 the plaintiff’s actions impair the ... ability to go to trial or threaten to interfere with the rightful 22 decision of the case.” *Malone v. U.S. Postal Service*, 833 F.2d 128, 131 (9th Cir. 1987) (citing 23 *Rubin v. Belo Broadcasting Corp.*, 769 F.2d 611, 618 (9th Cir. 1985)). Significantly, a 24 presumption of prejudice arises through a delay in the prosecution of an action. See *Anderson v. 25 Air West*, 542 F.2d 522, 524 (9th Cir. 1976). Toward this end, the third factor also supports 26 dismissal of the action. 27 Previously, the Court warned Plaintiff that it may dismiss the action if he failed to comply 28 with the obligation to keep the Court informed of his correct mailing address. (Doc. 2 at 5.) This 1 | warning satisfied the requirement that the Court consider lesser sanctions. See *Ferdik*, 963 F.2d at 2 | 1262; see also *Titus v. Mercedes Benz of N. Am.*, 695 F.2d 746, 749 n.6 (3rd Cir. 1982) 3 | (Cidentifying a “warning” as an alternative sanction). Moreover, no lesser sanction is feasible due 4 | to the Court’s inability to communicate with Plaintiff. See, e.g., *Gaston v. Marean*, 2020 WL 5 | 4059200, at *3 (E.D. Cal. July 20, 2020) (“given the Court’s apparent inability to communicate 6 | with Plaintiff, there are no other reasonable alternatives available to address Plaintiff’s failure to 7 || prosecute this action and his failure to apprise the Court of his current address”). 8 Finally, the policy favoring disposition of cases on their merits is outweighed by the other 9 | factors that favor dismissal. See *Malone*, 833 F.2d at 133, n.2 (explaining that although “the 10 || public policy favoring disposition of cases on their merits ... weighs against dismissal, it is not 11 | sufficient to outweigh the other four factors”). The factors identified by the Ninth Circuit weigh 12 | in favor of terminating sanctions for Plaintiff’s failure to keep the Court informed of his current 13 || mailing address as required by Local Rule 183(b). Thus, Court ORDERS: 14 1. The action is DISMISSED without prejudice for Plaintiffs failure to comply with 15 Local Rule 183 and failure to prosecute the action. 16 2. The Findings and Recommendations dated May 1, 2025 (Doc. 10) are terminated 17 as MOOT. 18 3. The Clerk of Court is directed to close the action. 19 20 IT IS SO ORDERED. 21 | Dated: __May 22, 2025 Charis [Tourn

TED STATES DISTRICT JUDGE

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