

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Paezboyd v. Kaiser Foundation Hospital, et al.

No. 2:25-cv-01690-DJC-CKD PS, United States District Court for the Eastern District of California (August 6, 2025)

SUMMARY

A United States magistrate judge recommends dismissing this pro se civil action for failure to prosecute after the plaintiff failed to file an amended complaint or seek an extension by the court-ordered deadline. The recommendation relies on Federal Rule of Civil Procedure 41(b) and the dismissal factors identified in *Ferdik v. Bonzelet*, and advises the plaintiff regarding objections and potential waiver of appellate rights.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 6, 2025
DOCKET	2:25-cv-01690-DJC-CKD PS
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal of a pro se civil action for failure to prosecute after plaintiff failed to file an amended complaint.
STANDARD OF REVIEW	The court applied the five-factor test governing dismissal for failure to prosecute or failure to comply with court orders: the public 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 alternatives.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- civil procedure
- pleadings
- sanctions

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed for failure to prosecute after plaintiff failed to file an amended complaint as ordered.
2. Whether the five Ferdik factors supported dismissal under Federal Rule of Civil Procedure 41(b).

HOLDINGS

1. The action should be dismissed for failure to prosecute because plaintiff's participation was necessary for the case to proceed and the relevant dismissal factors weighed in favor of dismissal.

KEY QUOTATIONS

“In recommending this action be dismissed for failure to prosecute, the court has 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 1-2)

FACTUAL BACKGROUND

Plaintiff filed a pro se civil complaint against Kaiser Foundation Hospital and other defendants. After screening the complaint, the court identified deficiencies, dismissed the complaint with leave to amend, and gave plaintiff thirty days to file an amended complaint. The deadline expired without an amended complaint or a request for an extension.

PROCEDURAL HISTORY

Plaintiff filed a pro se civil complaint. The magistrate judge screened the complaint under 28 U.S.C. § 1915(e), dismissed it with leave to amend, and allowed thirty days for filing an amended complaint. Plaintiff neither amended the complaint nor requested additional time, so the magistrate judge recommended dismissal under Federal Rule of Civil Procedure 41(b) and closure of the case, subject to review by the assigned district judge.

DISPOSITION

other

CASES CITED

- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(PS) Paezboyd v. Kaiser Foundation Hospital

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 OTIS C. PAEZBOYD, No. 2:25-cv-01690-DJC-CKD PS

12 Plaintiff,

13 v. FINDINGS & RECOMMENDATIONS

14 KAISER FOUNDATION HOSPITAL, et

al., 15 Defendants. 16 17 18 Plaintiff filed a pro se civil complaint and this matter was referred to the undersigned by 19 Local Rule 302(c)(21) pursuant to 28 U.S.C. § 636(b). By order filed June 25, 2025 (ECF No. 3) 20 the undersigned screened the complaint pursuant to 28 U.S.C. § 1915(e), advised plaintiff of the 21 deficiencies in the complaint, dismissed the complaint with leave to amend, and granted plaintiff 22 thirty days to file an amended complaint. Plaintiff was warned that failure to file an amended 23 complaint would result in a recommendation that this action be dismissed. The time granted for 24 plaintiff to file an amended complaint has expired. Plaintiff has neither filed an amended 25 complaint nor sought an extension of time to do so. 26 In recommending this action be dismissed for failure to prosecute, the court has 27 considered “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to 28 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring 1 || disposition of cases on their merits; and (5) the availability of less drastic alternatives.” *Ferdik v. 2 | Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (citation omitted). Because this case cannot 3 || move forward without plaintiff's participation, the court finds the factors weigh in favor of 4 | dismissal. 5 In accordance with the above, IT IS HEREBY RECOMMENDED as follows: 6 1. This action be dismissed for failure to prosecute. See Fed. R. Civ. P. 41(b); and 7 2. The Clerk of the Court be directed to close this case. 8 These findings and recommendations are submitted to the United States District Judge 9 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 10 || after being served with these findings and recommendations, plaintiff may file written objections 11 || with the court and serve a copy on all parties. Such a document should be captioned “Objections 12 || to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file 13 || objections within the specified time may waive the right to appeal the District Court’s order. 14 | *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 1991). 15 |

Dated: August 5, 2025 / ae □□ / a Ly a

16 CAROLYN K DELANEY

17 UNITED STATES MAGISTRATE JUDGE

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