

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Barron v. Barron

Barron · No. 25-cv-0720-BAS-SBC · Decided August 28, 2025

SUMMARY

The United States District Court for the Southern District of California dismissed Ruben Barron’s action without prejudice for failure to show cause and failure to prosecute. The court concluded that the constitutional claims lacked a state-actor defendant, the claim under 18 U.S.C. § 1001 lacked a private right of action and standing, and one defendant had not been served. The court terminated pending motions, vacated entries of default, and directed the Clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Cynthia Bashant
JURISDICTION	United States District Court for the Southern District of California
DECIDED	August 28, 2025
DOCKET	25-cv-0720-BAS-SBC
DISPOSITION	dismissed
PROCEDURAL POSTURE	After ordering Plaintiff to show cause why the action should not be dismissed for failure to state a constitutional claim, lack of standing, failure to serve one defendant, and failure to prosecute, the district court dismissed the action without prejudice when Plaintiff did not adequately respond.
STANDARD OF REVIEW	A district court may dismiss an action sua sponte under Federal Rule of Civil Procedure 41(b) for failure to prosecute or comply with a court order after weighing the applicable Pagtalunan factors.
PRECEDENTIAL VALUE	unpublished
PARTIES	Ruben Barron v. Normita Barron, Meratis Cossaboom, Yamilett Macias

TOPICS

- civil procedure
- motions to dismiss
- service of process
- standing
- constitutional law

PRACTICE AREAS

civil procedure

constitutional law

civil rights

QUESTIONS PRESENTED

1. Whether the action should be dismissed under Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to comply with the Court's show-cause order.
2. Whether the constitutional claim should be dismissed for failure to allege state action where it was asserted against private individuals.
3. Whether the claim under 18 U.S.C. § 1001 should be dismissed because the statute does not create a private right of action and Plaintiff failed to establish standing.
4. Whether the claim against Yamilett Macias should also be dismissed for failure to serve her within the period required by Federal Rule of Civil Procedure 4(m).

HOLDINGS

1. The district court may dismiss an action sua sponte under Federal Rule of Civil Procedure 41(b) and its inherent authority when a plaintiff fails to prosecute or comply with a court order, and the applicable dismissal factors favored dismissal here.
2. The constitutional claim was properly dismissed because Plaintiff failed to allege state action by the private defendants.
3. The claim under 18 U.S.C. § 1001 was dismissed because the statute does not imply a private right of action, and Plaintiff failed to establish standing to bring it.
4. The claim against Macias was additionally dismissed because Plaintiff failed to serve her with the summons and complaint within ninety days after filing the complaint.

KEY QUOTATIONS

“Accordingly, the case is DISMISSED WITHOUT PREJUDICE for failure to show cause and failure to prosecute.” (Opinion at 1)

“A district court may dismiss an action for failure to prosecute or to comply with a court order.” (Opinion at 1)

“A threshold requirement of any constitutional claim is the presence of state action.” (Opinion at 2)

“which does not imply a private right of action, meaning it does not permit private citizens to make claims under the statute.” (Opinion at 2)

FACTUAL BACKGROUND

Ruben Barron asserted a constitutional claim under the Fifth and Fourteenth Amendments against private individuals and a claim under 18 U.S.C. § 1001. He did not respond to the Court's order requiring him to show cause why those claims should not be dismissed for failure to state a claim and lack of standing. Although he filed proof of service for two defendants, he did not serve Yamilett Macias within the required period.

PROCEDURAL HISTORY

Plaintiff filed a two-claim complaint against three defendants. The Court ordered Plaintiff to show cause by August 8, 2025, concerning the absence of a state actor for his constitutional claim, lack of a private right of action and standing under 18 U.S.C. § 1001, and failure to serve Yamilett Macias. Plaintiff served two defendants but did not respond to the show-cause order and did not serve Macias. The Court dismissed the action without prejudice, terminated pending motions as moot, vacated entries of default against two defendants, and directed the Clerk to close the case.

DISPOSITION

dismissed

CASES CITED

- Hells Canyon Pres. Council v. U.S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005)
- Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- In re Eisen, 31 F.3d 1447, 1451 (9th Cir. 1994)
- Roberts v. AT&T Mobility LLC, 877 F.3d 833, 837 (9th Cir. 2017)
- Chrysler Corp. v. Brown, 441 U.S. 281, 316 (1979)
- Douglas v. Kalanta, No. 23-15104 (9th Cir. Apr. 25, 2024), cert. denied, 145 S. Ct. 416 (2024)
- Link v. Wabash R.R., 370 U.S. 626, 630-31 (1962)

OPINION

Barron v. Barron

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 RUBEN BARRON, Case No. 25-cv-0720-BAS-SBC 12 Plaintiff,

ORDER DISMISSING CASE

13 v. WITHOUT PREJUDICE FOR

14 NORMITA BARRON, MERATIS FAILURE TO SHOW CAUSE

COSSABOOM, and YAMILETT

15

MACIAS, (ECF No. 3)

16 Defendants. 17

18 Last month, this Court ordered Plaintiff Ruben Barron (“Barron” or “Plaintiff”) to 19 show
cause for why this case should not be dismissed for failure to identify a state actor 20 defendant
for claims brought under the Constitution, failure to assert standing for a claim 21 under federal

criminal law, and failure to serve the defendants. (ECF No. 3.) The Court 22 required Plaintiff to show cause by no later than August 8, 2025, or have the case dismissed. 23 (Id.) 24 The Court received a notice of mail returned as undeliverable on July 25, 2025. (ECF 25 No. 9.) The Clerk of Court amended the address for Plaintiff to appropriately state the 26 missing P.O. Box number as listed in Plaintiff's Complaint and mailed the Order to Show 27 Cause to Plaintiff again on July 29, 2025. The mail was not again returned as undeliverable, 28 and accordingly, the Court assumes Plaintiff received this Order to Show Cause. 1 Plaintiff filed proof of service on two of three defendants (ECF Nos. 4, 6), but 2 otherwise did not respond to this Court's order. Accordingly, the case is DISMISSED 3 WITHOUT PREJUDICE for failure to show cause and failure to prosecute. 4 A district court may dismiss an action for failure to prosecute or to comply with a 5 court order. See Fed. R. Civ. P. 41(b); *Hells Canyon Pres. Council v. U.S. Forest Serv.*, 6 403 F.3d 683, 689 (9th Cir. 2005) ("[C]ourts may dismiss under Rule 41(b) sua sponte, at 7 least under certain circumstances."); CivLR 83.1(a) (providing that failure "to comply with 8 . . . any order of the Court may be grounds for imposition by the Court of . . . sanctions 9 authorized by statute or rule or within the inherent power of the Court, including, without 10 limitation, dismissal of any actions"). Before doing so, a court should weigh: "(1) the 11 public's interest in expeditious resolution of litigation; (2) the court's need to manage its 12 docket; (3) the risk of prejudice to defendants/respondents; (4) the availability of less 13 drastic alternatives; and (5) the public policy favoring disposition of cases on their merits." 14 *Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th Cir. 2002) (citing *Ferdik v. Bonzelet*, 963 15 F.2d 1258, 1260–61 (9th Cir. 1992)). Moreover, "[a]lthough beneficial to the reviewing 16 court, a district court is not required to make specific findings on each of the essential 17 factors." *In re Eisen*, 31 F.3d 1447, 1451 (9th Cir. 1994). 18 The Court previously ordered that, should Plaintiff wish to proceed, he must show 19 cause as to why his claims should not be dismissed for failure to state a claim and for failure 20 to establish standing. (ECF No. 3.) 21 The Court ordered Plaintiff to show cause as to why Claim 1, brought under the Fifth 22 and Fourteenth Amendments, should not be dismissed for lack of a state actor. (ECF No. 23 3 at 1–2.) The Court explained that claims brought under these Amendments could not be 24 enforced against private individuals, yet Plaintiff here brings Claim 1 against private 25 individuals. (See ECF No. 1; see also ECF No. 3 at 2 (citing *Roberts v. AT&T Mobility* 26 LLC, 877 F.3d 833, 837 (9th Cir. 2017) ("A threshold requirement of any constitutional 27 claim is the presence of state action.")).) The Court provided Plaintiff with the opportunity 28 to show cause for why the Court should not dismiss Claim 1 for lacking a state action and 1 thus failing to state a claim, but Plaintiff did not respond by the August 8, 2025, deadline. 2 It is in the public's interest for the expeditious resolution of such claims as these that are 3 not grounded in the law, and likewise it mitigates prejudice to defendants by saving them 4 the time of having to defend against claims improperly raised. The Court gave Plaintiff the 5 opportunity to demonstrate why his Claim 1 should survive, and explicitly warned him the 6 case would be dismissed if he failed to show adequate cause, yet Plaintiff did not respond. 7 (ECF No.

3 at 3.) The Pagtalunan factors thus weigh in favor of dismissing Plaintiff's

8 Claim 1 as Plaintiff has failed to state a claim and failed to show cause.

9 The Court also ordered Plaintiff to show cause as to why Plaintiff had standing to 10 bring Claim
2 under a federal criminal law, 18 U.S.C. § 1001, which does not imply a 11 private right of
action, meaning it does not permit private citizens to make claims under 12 the statute. (Id. at 2
(citing *Chrysler Corp. v. Brown*, 441 U.S. 281, 316 (1979); *Douglas v. 13 Kalanta*, No. 23-15104,
2024 WL 1795160, at *3 (9th Cir. Apr. 25, 2024), cert. denied, 14 145 S. Ct. 416 (2024)).) Plaintiff
did not respond. Again, the Pagtalunan factors weigh in 15 favor of dismissing Claim 2 because
Plaintiff has failed to assert that he has standing to 16 bring Claim 2 under federal criminal law,
despite the Court explicitly requiring him to state 17 his grounds for standing. (See ECF No. 3.)
Claim 2 shall likewise be dismissed for lack of 18 standing and for failure to show cause. 19
Plaintiff's Complaint contains only the two claims—Claim 1 and Claim 2—and 20 therefore the
dismissal of each claim is a dismissal of the action as a whole against all of 21 the defendants.
(ECF No. 1.) And yet, the case against Yamilett Macias is dismissed on an 22 additional ground—
Plaintiff failed to serve her with the summons and complaint. Rule 23 4(m) of the Federal Rules of
Civil Procedure provides that if the defendant is not served 24 within ninety days after the
complaint is filed, the court must dismiss the action against a 25 defendant or order that service be
made within a specific time. Plaintiff's deadline to serve 26 Macias elapsed on June 25, 2025, and
the Court ordered Plaintiff to show cause as to why 27 the case against Macias should not be
dismissed for failure to prosecute. (ECF No. 3.) 28 While Plaintiff subsequently served the other
two defendants (ECF Nos. 4, 6), Plaintiff has 1 ||not served Macias, and therefore the case against
Macias is dismissed on the additional 2 || ground that Plaintiff has failed to prosecute his case
against Macias. See *Link v. Wabash 3 ||R.R.*, 370 U.S. 626, 630-31 (1962). 4 Accordingly, this
action is DISMISSED WITHOUT PREJUDICE. All pending 5 ||motions in this case (ECF Nos.
10, 11) are TERMINATED AS MOOT. The Clerk of 6 ||Court's entry of default against Normita
Barron and Meratis Cossaboom is VACATED. 7 || (ECF No. 8.) The Clerk of Court is directed to
close the case. 8 IT IS SO ORDERED. 9 10 || DATED: August 28, 2025 ii ly A (Dipharb 11 Hon.
Cynthia Bashant, Chief Judge D United States District Court 13 14 15 16 17 18 19 20 21 22 23 24
25 26 27 28 A.