

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Barron v. Barron

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

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.