

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Michael Joseph Sanz v. Solano County Sheriff Office, et al.

Sanz v. Solano County Sheriff Office · No. 2:24-cv-00630 SCR P · Decided November 5, 2025

SUMMARY

The court recommends dismissal without prejudice of Michael Joseph Sanz’s 42 U.S.C. § 1983 action for failure to prosecute and failure to comply with a court order. The recommendation follows plaintiff’s failure to return service documents or respond to an order to show cause, and the matter is submitted to an assigned district judge under 28 U.S.C. § 636(b)(1).

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sean C. Riordan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 5, 2025
DOCKET	2:24-cv-00630 SCR P
DISPOSITION	other
PROCEDURAL POSTURE	A pro se prisoner civil-rights plaintiff failed to return documents necessary to serve the defendants and failed to comply with an order to show cause. The magistrate judge issued findings and recommendations recommending dismissal without prejudice for failure to prosecute and failure to comply with a court order.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- service of process
- civil procedure
- section 1983
- prisoners rights
- sanctions

PRACTICE AREAS

- civil procedure
- civil rights
- prisoner civil rights

QUESTIONS PRESENTED

- Whether the action should be dismissed without prejudice for failure to prosecute and failure to comply with a court order under Federal Rule of Civil Procedure 41(b) and Local Rule 110.

2. Whether the five factors governing dismissal for failure to prosecute supported dismissal despite the public policy favoring adjudication on the merits.

HOLDINGS

1. The magistrate judge recommended dismissal without prejudice because plaintiff failed to return the documents necessary for service and failed to respond to the order to show cause.

KEY QUOTATIONS

“Accordingly, the undersigned recommends that the action be dismissed for failure to prosecute and failure to comply with a court order.” (at 1)

“The undersigned has also considered less drastic alternatives and concludes that dismissal without prejudice is appropriate.” (at 2)

FACTUAL BACKGROUND

Plaintiff, formerly incarcerated in county jail, brought a pro se and in forma pauperis civil-rights action alleging First Amendment mail-access violations. Although the complaint was screened as stating cognizable claims, plaintiff failed to return the documents required to effect service on the defendants and did not respond to the subsequent order to show cause. No defendants had appeared, and the service documents had not been returned by the Postal Service.

PROCEDURAL HISTORY

The court screened the complaint and found cognizable First Amendment mail-access claims under 42 U.S.C. § 1983 against the Solano County Sheriff's Office and Lieutenant Hagen in his official capacity. After plaintiff elected to proceed, the court ordered him to complete service documents; when he did not do so, the court issued an order to show cause. Plaintiff did not respond, and the magistrate judge recommended dismissal without prejudice under Federal Rule of Civil Procedure 41(b) and Local Rule 110, subject to review by an assigned district judge.

DISPOSITION

other

CASES CITED

- *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)
- *Yourish v. California Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999)
- *Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th Cir. 2002)
- *Leon v. IDX Systems Corp.*, 464 F.3d 951, 961 (9th Cir. 2006)
- *Martinez v. Ylst*, 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 MICHAEL JOSEPH SANZ, No. 2:24-cv-00630 SCR P 12 Plaintiff, 13 v.
ORDER & FINDINGS AND RECOMMENDATIONS 14 SOLANO COUNTY SHERIFF
OFFICE, et al., 15 Defendants. 16 17 18 Plaintiff, who was formerly incarcerated in county jail, is
proceeding pro se and in forma 19 pauperis with a civil rights action under 42 U.S.C. § 1983.

On March 31, 2025, the undersigned 20 screened plaintiff's complaint and determined it stated
cognizable First Amendment mail access 21 claims against defendants Solano County Sheriff's
Office and Lt. Hagen in his official capacity. 22 (ECF No. 6.) Plaintiff later elected to proceed on
his complaint as screened. (ECF No. 10.) 23 On June 3, 2025, the undersigned ordered plaintiff to
complete and return the documents 24 needed to effect service on defendants.

(ECF No. 11.) After plaintiff did not respond, the 25 undersigned ordered plaintiff to show cause,
in writing, within twenty-one days, why the failure 26 to return the service documents should not
result in a recommendation that this case be dismissed 27 based on failure to prosecute under
Federal Rule of Civil Procedure Rule 41(b). (ECF No. 14.) 28 The order also advised plaintiff that
his failure to respond would result in the recommendation 1 that the action be dismissed without
prejudice for failure to prosecute.

(Id.) 2 The time for plaintiff to respond to that order has now passed, and plaintiff has not 3
returned the service documents. The service documents have not been returned by the U.S. Postal
4 Service¹ and plaintiff has not filed an updated address.

Accordingly, the undersigned 5 recommends that the action be dismissed for failure to prosecute
and failure to comply with a 6 court order. See Fed. R. Civ. P. 41(b); Local Rule 110. 7 In
recommending dismissal, the court has considered: "(1) the public's interest in 8 expeditious
resolution of litigation; (2) the court's need to manage its docket; (3) the risk of 9 prejudice to the
defendants; (4) the public policy favoring disposition of cases on their merits; and 10 (5) the
availability of less drastic alternatives." *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th 11 Cir.

1992) (citation omitted). 12 "The public's interest in expeditious resolution of litigation always
favors dismissal." 13 *Yourish v. Cal. Amplifier*, 191 F.3d 983, 990 (9th Cir. 1999). The court's
need to manage its 14 docket also weighs in favor of dismissal, particularly given the heavy
caseload in this District. 15 The third factor is neutral given no defendants have appeared, but
"[u]nnecessary delay inherently 16 increases the risk that witnesses' memories will fade and
evidence will become stale." 17 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 (9th Cir.

2002). The public policy favoring disposition 18 of actions on the merits weighs against dismissal,
but when "standing alone ... is not sufficient to 19 outweigh the other four factors." *Leon v. IDX
Sys. Corp.*, 464 F.3d 951, 961 (9th Cir. 2006). 20 The undersigned has also considered less drastic
alternatives and concludes that dismissal without 21 prejudice is appropriate.

22 CONCLUSION 23 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall randomly 24 assign a District Judge to this action. 25 In addition, IT IS HEREBY RECOMMENDED that the action be dismissed for failure to 26 1 The screening order was returned by mail, which prompted the undersigned to issue an earlier 27 order to show cause pursuant to the address notification requirements in Local Rule 183(b).

(ECF No. 9.) The undersigned discharged that order to show cause after plaintiff responded with an 28 updated address and his notice of election. (ECF No. 11.) 1 || prosecute and failure to comply with a court order. See Fed. R. Civ. P. 41(b); Local Rule 110. 2 These findings and recommendations are submitted to the United States District Judge 3 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).

Within twenty-one days 4 || after being served with these findings and recommendations, any party may file written 5 || objections with the court and serve a copy on all parties. Such a document should be captioned 6 || “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the 7 || objections shall be filed and served within fourteen days after service of the objections.

The 8 | parties are advised that failure to file objections within the specified time may waive the right to 9 || appeal the District Court’s order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). 10 | DATED: November 5, 2025 12 SEAN C. RIORDAN 13 UNITED STATES MAGISTRATE JUDGE 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28