

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Rutherford v. Steadman

Rutherford · No. 3:24-cv-01627-JAH-JLB · Decided May 21, 2025

SUMMARY

The United States District Court for the Southern District of California dismissed Nicholas Jovon Rutherford’s 42 U.S.C. § 1983 action after he failed to state a claim and failed to file an amended complaint as required by the court’s prior order. The court also certified that an appeal in forma pauperis would not be taken in good faith and directed the Clerk to enter judgment and close the case.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	John A. Houston
JURISDICTION	United States District Court for the Southern District of California
DECIDED	May 21, 2025
DOCKET	3:24-cv-01627-JAH-JLB
DISPOSITION	dismissed
PROCEDURAL POSTURE	A pro se prisoner civil-rights action under 42 U.S.C. § 1983 was dismissed sua sponte after the court granted in forma pauperis status, dismissed the original complaint for failure to state a claim, granted leave to amend, and Plaintiff failed to file an amended complaint or request an extension.
STANDARD OF REVIEW	The court screened the complaint sua sponte under 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1) to determine whether it stated a claim upon which relief could be granted; dismissal for failure to prosecute was considered under Federal Rule of Civil Procedure 41(b).
PRECEDENTIAL VALUE	unpublished
PARTIES	Nicholas Jovon Rutherford v. S. Steadman, P. Wingo, B. Gomez, C. Chadry, Espeno

TOPICS

- prisoners rights
- section 1983
- pleadings
- civil procedure
- sanctions

PRACTICE AREAS

civil procedure

prisoner civil rights

constitutional law

QUESTIONS PRESENTED

1. Whether the action should be dismissed because the complaint failed to state a claim under 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1).
2. Whether the action should be dismissed for failure to prosecute after Plaintiff failed to comply with the court's order requiring an amended complaint.
3. Whether the court should certify under 28 U.S.C. § 1915(a)(3) that an appeal in forma pauperis would not be taken in good faith.

HOLDINGS

1. A prisoner civil-rights action may be dismissed during statutory screening when the complaint fails to state a claim upon which relief can be granted under 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1).
2. When a plaintiff fails to respond to a court's order requiring amendment after being warned that noncompliance may result in dismissal, the action may be dismissed under Federal Rule of Civil Procedure 41(b) for failure to prosecute.
3. The court certified that an appeal in forma pauperis would not be taken in good faith.

KEY QUOTATIONS

“The failure of the plaintiff eventually to respond to the court’s ultimatum—either by amending the complaint or by indicating to the court that [he] will not do so—is properly met with the sanction of a Rule 41(b) dismissal.” (at 2)

FACTUAL BACKGROUND

Nicholas Jovon Rutherford, a prisoner proceeding without counsel, alleged that prison officials violated his constitutional rights while he was incarcerated at Richard J. Donovan Correctional Facility in October 2022. He sought to proceed in forma pauperis rather than prepay the filing fee. After the court identified pleading deficiencies and granted leave to amend, Rutherford neither filed an amended complaint nor requested additional time.

PROCEDURAL HISTORY

Plaintiff filed a § 1983 complaint and moved to proceed in forma pauperis. The court granted IFP status on February 24, 2025, screened and dismissed the complaint for failure to state a claim, and granted 45 days to amend while warning that failure to do so would result in dismissal. Plaintiff did not amend by the April 10, 2025 deadline and did not seek an extension. The court dismissed the action, certified that an IFP appeal would not be taken in good faith, directed entry of final judgment, and closed the case.

DISPOSITION

dismissed

CASES CITED

- Lira v. Herrera, 427 F.3d 1164, 1169 (9th Cir. 2005)
- Edwards v. Marin Park, 356 F.3d 1058, 1065 (9th Cir. 2004)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 NICHOLAS JOVON RUTHERFORD, Case No. 3:24-cv-01627-JAH-JLB
CDCR #BE-6676, 12 ORDER DISMISSING CIVIL Plaintiff, 13 ACTION FOR FAILING TO
STATE vs. A CLAIM PURSUANT 14 TO 28 U.S.C. § 1915(e)(2) AND S. STEADMAN, Warden;
P. WINGO, 15 § 1915A(b)(1) AND FOR FAILING ISU Officer; B. GOMEZ, C/O; TO
PROSECUTE IN COMPLIANCE 16 C. CHADRY, C/O; ESPENO, WITH COURT ORDER 17
Defendants.

REQUIRING AMENDMENT 18 19 Plaintiff Nicholas Jovon Rutherford, a prisoner at Salinas
Valley State Prison, is 20 proceeding without counsel in this civil rights action filed pursuant to 42
U.S.C. § 1983. 21 (See “Compl.,” ECF No. 1 at 1.)

In his Complaint, Plaintiff alleged several prison officials 22 at Richard J. Donovan Correctional
Facility in San Diego violated his constitutional rights 23 while he was incarcerated there in
October 2022. (Id. at 2–3.) 24 Plaintiff did not prepay the civil filing fee required by 28 U.S.C. §
1914(a) at the 25 time he filed his Complaint, but instead filed a Motion to Proceed In Forma
Pauperis 26 (“IFP”) pursuant to 28 U.S.C. § 1915(a).

(See ECF No. 2.) On February 24, 2025, the 27 Court granted Plaintiff leave to proceed IFP, but
screened and dismissed his Complaint sua 28 sponte for failing to state claim pursuant to 28
U.S.C. § 1915(e)(2)(B)(ii) and 1 1915A(b)C1). (See ECF No. 3.) Plaintiff was notified of his
pleading deficiencies, and 2 || granted 45 days leave in which to file an Amended Complaint that
fixed them. (/d. at □□ 3 || 14.)

The Court also warned Plaintiff that his failure to amend would result in the dismissal 4 llof his
case. (Ud. at 14, citing Lira v. Herrera, 427 F.3d 1164, 1169 (9th Cir. 2005) (“If a 5 || plaintiff does
not take advantage of the opportunity to fix his complaint, a district court 6 ||may convert the
dismissal of the complaint into a dismissal of the entire action.”).)

7 Plaintiff’s Amended Complaint was due on or before April 10, 2025, and more than 8 ||a month
has passed since. But to date, Plaintiff has failed to amend and has not requested 9 || an extension
of time in which to do so. “The failure of the plaintiff eventually to respond 10 |to the court’s
ultimatum—either by amending the complaint or by indicating to the court 11 |that [he] will not

do so—is properly met with the sanction of a Rule 41(b) dismissal.” 12 || Edwards v. Marin Park, 356 F.3d 1058, 1065 (9th Cir.

2004). 13 Accordingly, the Court DISMISSES this civil action in its entirety based on 14 || Plaintiff’s failure to state a claim upon which § 1983 relief can be granted pursuant to 28 15 U.S.C. § 1915(e)(2)(B)(i) and § 1915A(b)(1), and his failure to prosecute as required by 16 || Court’s February 24, 2025 Order requiring amendment.

The Court further CERTIFIES 17 an IFP appeal would not be taken in good faith pursuant to 28 U.S.C. § 1915(a)(3) and 18 || DIRECTS the Clerk to enter a final judgment of dismissal and close the file. 19 IT IS SO ORDERED. 20 || Dated: May 21, 2025 21 Hon. John A. Houston 79 / United States District Judge 23 24 25 26 27 28 2 ALANA NACADT □□□□□□□□