

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Eric Garcia v. Diken, et al.

Garcia v. Diken · No. 3:25-cv-00416-MMD-CLB · Decided January 7, 2026

OPINION

2 3 UNITED STATES DISTRICT COURT 4 DISTRICT OF NEVADA 5 * * * 6 ERIC GARCIA,
Case No. 3:25-cv-00416-MMD-CLB 7 Plaintiff, ORDER v. 8 DIKEN, et al., 9 Defendants. 10 11
Plaintiff Eric Garcia brings this civil rights action under 42 U.S.C. § 1983 to redress 12
constitutional violations that he claims he suffered while incarcerated at Ely State Prison. 13 (ECF
No. 1-1.)

On October 27, 2025, the Court ordered Plaintiff to either pay the full \$405 14 filing fee or file a
complete application to proceed in forma pauperis by December 23, 15 2025. (ECF No. 5.) The
Court warned Plaintiff that the action could be dismissed if he 16 failed to timely comply. (Id. at
2.) That deadline expired and Plaintiff did not pay the filing 17 fee, file a complete application to
proceed in forma pauperis, or otherwise respond.

18 District courts have the inherent power to control their dockets and “[i]n the 19 exercise of that
power, they may impose sanctions including, where appropriate... 20 dismissal” of a case.
Thompson v. Hous. Auth. of City of L.A., 782 F.2d 829, 831 (9th Cir. 21 1986). A court may
dismiss an action based on a party’s failure to obey a court order or 22 comply with local rules.

See Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) 23 (affirming dismissal for failure to
comply with local rule requiring pro se plaintiffs to keep 24 court apprised of address); Malone v.
U.S. Postal Serv., 833 F.2d 128, 130 (9th Cir. 1987) 25 (affirming dismissal for failure to comply
with court order).

In determining whether to 26 dismiss an action on one of these grounds, the Court must consider:
(1) the public’s 27 interest in expeditious resolution of litigation; (2) the Court’s need to manage
its docket; 28 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition
of 2 Phenylpropanolamine Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir.

2006) (quoting 3 Malone, 833 F.2d at 130). 4 The first two factors, the public’s interest in
expeditiously resolving this litigation 5 and the Court’s interest in managing its docket, weigh in
favor of dismissal of Plaintiff’s 6 claims.

The third factor, risk of prejudice to Defendants, also weighs in favor of dismissal 7 because a
presumption of injury arises from the occurrence of unreasonable delay in filing 8 a pleading
ordered by the court or prosecuting an action. See Anderson v. Air West, 542 9 F.2d 522, 524 (9th
Cir. 1976).

The fourth factor—the public policy favoring disposition of 10 cases on their merits—is greatly outweighed by the factors favoring dismissal. 11 The fifth factor requires the Court to consider whether less drastic alternatives can 12 be used to correct the party’s failure that brought about the Court’s need to consider 13 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir.

1999) (explaining 14 that considering less drastic alternatives before the party has disobeyed a court order 15 does not satisfy this factor); accord *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th 16 Cir. 2002). Courts “need not exhaust every sanction short of dismissal before finally 17 dismissing a case, but must explore possible and meaningful alternatives.” *Henderson v.* 18 *Duncan*, 779 F.2d 1421, 1424 (9th Cir.

1986). Because this action cannot proceed until 19 Plaintiff addresses the matter of the filing fee, the only alternative is to enter a second 20 order setting another deadline. But the reality of repeating an ignored order is that it often 21 only delays the inevitable and squanders the Court’s finite resources.

The circumstances 22 here do not indicate that this case will be an exception. Setting another deadline is not a 23 meaningful alternative given these circumstances. So the fifth factor favors dismissal. 24 Having thoroughly considered these dismissal factors, the Court finds that they 25 weigh in favor of dismissal. It is therefore ordered that this action is dismissed without 26 prejudice based on Plaintiff’s failure to address the matter of the filing fee in compliance 27 with this Court’s October 27, 2025, order.

The Clerk of Court is kindly directed to enter 28 1 || judgment accordingly and close this case. If Plaintiff wishes to pursue his claims, he must 2 || file a complaint and address the matter of the filing fee in a new case. 3 4 DATED THIS 7" Day of January 2026. 6 ee MIRANDA M. DU 7 UNITED STATES DISTRICT JUDGE 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28