

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

**John Patrick Smylie v. Plumas County District Attorney's Office, et
al.**

Smylie v. Plumas County District Attorney's Office · No. 2:25-cv-2064 DC CSK P · Decided October 10, 2025

SUMMARY

The United States Magistrate Judge recommends dismissing John Patrick Smylie's 42 U.S.C. § 1983 action for failure to prosecute after he did not file an amended complaint within the granted deadline. The recommendation applies the factors governing dismissal for failure to prosecute and advises that objections may be filed within fourteen days.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 JOHN PATRICK SMYLIE, No. 2:25-cv-2064 DC CSK P 12 Plaintiff, 13 v.
FINDINGS & RECOMMENDATIONS 14 PLUMAS COUNTY DISTRICT ATTORNEY'S
OFFICE, et al., 15 Defendants. 16 17 18 Plaintiff is a county prisoner, proceeding without
counsel, with a civil rights action 19 pursuant to 42 U.S.C. § 1983.

By order filed August 27, 2025, plaintiff's complaint was 20 dismissed and thirty days leave to
file an amended complaint was granted. (ECF No. 6.) Thirty 21 days from that date have now
passed, and plaintiff has not filed an amended complaint, or 22 otherwise responded to the court's
order. 23 In recommending this action be dismissed for failure to prosecute, the Court has 24
considered "(1) the public's interest in expeditious resolution of litigation; (2) the court's need to
25 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring 26
disposition of cases on their merits; and (5) the availability of less drastic alternatives." *Ferdik v.*
27 *Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.

1992) (citation omitted). Because this case cannot 28 move forward without plaintiff's
participation, the Court finds the factors weigh in favor of 1 } dismissal. 2 Accordingly, IT IS
HEREBY RECOMMENDED that this action be dismissed for failure 3 || to prosecute. See Fed. R.
Civ. P. 41(b). 4 These findings and recommendations are submitted to the United States District
Judge 5 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).

Within fourteen days 6 || after being served with these findings and recommendations, plaintiff
may file written objections 7 || with the court and serve a copy on all parties. Such a document
should be captioned 8 | "Objections to Magistrate Judge's Findings and Recommendations."

Plaintiff is advised that 9 || failure to file objections within the specified time may waive the right to appeal the District 10 || Court's order.

Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991). 1] 12 | Dated: October 9, 2025 4 aA 13 \ Aaa spe
CHI SOO KIM 14 UNITED STATES MAGISTRATE JUDGE 15 16 Smy12064.fia/2 18 19 20 21
22 23 24 25 26 27 28

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