

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Larry William Cortinas v. Rios, et al.

Cortinas v. Rios · No. No. 2:23-CV-0388-WBS-DMC-P · Decided October 14, 2025

SUMMARY

Findings and recommendations from the United States District Court for the Eastern District of California recommending dismissal without prejudice of Larry William Cortinas's § 1983 action. The recommendation is based on Plaintiff's failure to pay required filing fees and comply with a court order, constituting lack of prosecution and failure to follow court rules and orders.

OPINION

1 2 3 4 5 6 7 8 IN THE UNITED STATES DISTRICT COURT 9 FOR THE EASTERN
DISTRICT OF CALIFORNIA 10 11 LARRY WILLIAM CORTINAS, No. 2:23-CV-0388-WBS-
DMC-P 12 Plaintiff, 13 v. FINDINGS AND RECOMMENDATIONS 14 RIOS, et al., 15
Defendants. 16 17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to
18 42 U.S.C. § 1983. 19 On August 18, 2025, the Court directed Plaintiff to pay the filing fees for
this case 20 within 30 days.

Plaintiff was warned that failure to resolve the fee status may result in dismissal 21 of this action
for lack of prosecution and failure to comply with court rules and orders. See Local 22 Rule 110.
To date, Plaintiff has not complied. 23 The Court must weigh five factors before imposing the
harsh sanction of dismissal. 24 See *Bautista v. Los Angeles County*, 216 F.3d 837, 841 (9th Cir.

2000); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987). Those factors are: (1)
the public's interest in 26 expeditious resolution of litigation; (2) the Court's need to manage its
own docket; (3) the risk of 27 prejudice to opposing parties; (4) the public policy favoring
disposition of cases on their merits; 28 and (5) the availability of less drastic sanctions.

See *id.*; see also *Ghazali v. Moran*, 46 F.3d 52, 1 } 53 (9th Cir. 1995) (per curiam). A warning that
the action may be dismissed as an appropriate 2 || sanction is considered a less drastic alternative
sufficient to satisfy the last factor. See *Malone*, 3 | 833 F.2d at 132-33 &n.1.

The sanction of dismissal for lack of prosecution is appropriate where 4 || there has been
unreasonable delay. See *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 5 || 1986). Dismissal
has also been held to be an appropriate sanction for failure to comply with an 6 || order to file an
amended complaint. See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.

7 | 1992). 8 Having considered these factors, and in light of Plaintiffs failure to pay the filing 9 || fees for this case as directed, the Court finds that dismissal of this action is appropriate. 10 Based on the foregoing, the undersigned recommends that this action be dismissed, 11 || without prejudice, for lack of prosecution and failure to comply with court rules and orders.

12 These findings and recommendations are submitted to the United States District 13 || Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(I). Within 14 days 14 | after being served with these findings and recommendations, any party may file written 15 || objections with the court. Responses to objections shall be filed within 14 days after service of 16 || objections.

Failure to file objections within the specified time may waive the right to appeal. See 17 || Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991). 18 19 | Dated: October 10, 2025 Co 20 DENNIS M. COTA 7] UNITED STATES MAGISTRATE JUDGE 22 23 24 25 26 27 28