

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

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| Case No. | CV 10-5223 AG (JCG) | Date | December 29, 2010 |
| Title | Abraham Nguyen Martin v. Tennille Warren, <i>et al.</i> | | |

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| Present: The Honorable | Jay C. Gandhi, United States Magistrate Judge | | |
| Beatriz Martinez | None Appearing | | |
| Deputy Clerk | Court Reporter / Recorder | Tape No. | |
| Attorneys Present for Plaintiffs: | Attorneys Present for Defendants: | | |
| None Appearing | None Appearing | | |

Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE WHY ACTION SHOULD NOT BE DISMISSED FOR FAILURE TO PROSECUTE

Plaintiff lodged a civil rights complaint, which was then filed in this case on July 29, 2010. On August 30, 2010, the Court dismissed the complaint with leave to file an amended complaint. In the Court’s August 30, 2010 Order [Docket No. 5], Plaintiff was warned that his failure to file an amended complaint as ordered may result in a recommendation that this action, or portions thereof, be dismissed. (Aug. 30th Order at 17.) On November 9, 2010, the Court extended the time for filing an amended complaint to December 9, 2010.

To date, Plaintiff has not filed an amended complaint as ordered. A district court is authorized to dismiss an action “[i]f the plaintiff fails to prosecute or to comply with these rules or a court order[.]” Fed. R. Civ. P. 41(b). The court may dismiss a case under Rule 41(b) *sua sponte*. *Link v. Wabash R. Co.*, 370 U.S. 626, 630, 633 (1962); *McKeever v. Block*, 932 F.2d 795, 797 (9th Cir. 1991).

Accordingly, **IT IS ORDERED THAT** on or before **January 12, 2011**, Plaintiff shall file a Response to this Order showing good cause, if any exists, why he failed to timely file an amended complaint, and why this action should not be dismissed for failure to prosecute. Plaintiff shall support any attempt to show good cause with a declaration under penalty of perjury, accompanied by an amended complaint that complies with the Court’s Order of August 30, 2010.

The Court admonishes Plaintiff that his failure to timely file a declaration responsive to this Order to Show Cause along with a first amended complaint will

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be deemed by the Court as further evidence of his failure to comply with the Court's orders and rules, and his failure to prosecute this action, and may result in a recommendation to the District Judge that the action be dismissed on that basis.

cc: Parties of Record

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