

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 12-10187-DOC (SP)	Date	June 16, 2015
Title	GEORGE EDWARD MIXON v. CSP-LOS ANGELES CO., et al.		

Present: The Honorable	Sheri Pym, United States Magistrate Judge
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Kimberly Carter	None Appearing	None Appearing
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Deputy Clerk	Court Reporter / Recorder	Tape No.
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Attorneys Present for Plaintiff(s):	Attorneys Present for Defendant(s):
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None Appearing	None Appearing
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Proceedings: (IN CHAMBERS) SECOND ORDER TO SHOW CAUSE WHY CASE SHOULD NOT BE DISMISSED FOR FAILURE TO PROSECUTE

On November 29, 2012, plaintiff George Edward Mixon, a California prisoner proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. On December 19, 2012, this court, having completed screening of the complaint, dismissed it with leave to file a First Amended Complaint. On January 18, 2013, plaintiff filed his First Amended Complaint, which the court subsequently ordered to be served on defendants.

Defendants filed a motion to dismiss the First Amended Complaint and, following the parties' briefing of the motion to dismiss, the court found the First Amended Complaint subject to dismissal in part. In particular, the court found plaintiff failed to state a Fourteenth Amendment equal protection claim, but did state a claim for excessive force under the Eighth Amendment against defendants Sirro, Brown, and Pollard, and also stated a claim for deliberate indifference under the Eighth Amendment against all defendants. The court further granted plaintiff leave to file a Second Amended Complaint by April 13, 2015.

Plaintiff did not file a Second Amended Complaint or otherwise respond to the court's order by the April 13, 2015 deadline. Accordingly, on May 4, 2015, the court issued an Order to Show Cause ("OSC") by May 25, 2015 why the action should not be dismissed for failure to prosecute. Plaintiff also failed to respond to the OSC.

At this point, it appears plaintiff is no longer interested in prosecuting this case.

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But to ensure there is no confusion and plaintiff has every opportunity to pursue this case if he wishes, the court issues this second **Order to Show Cause** to clarify plaintiff's options. If plaintiff wishes to continue to pursue this action, he must respond to this Order by **July 7, 2015** by doing one of the following:

1. Plaintiff may pursue this action further by filing a Second Amended Complaint by **July 7, 2015**, in which case the OSCs will be automatically discharged.
2. Plaintiff may pursue this action further by filing a Notice of Intent Not to Amend First Amended Complaint by **July 7, 2015**, which will also discharge the OSCs. If plaintiff timely files such Notice, the court will recommend that plaintiff's equal protection claim be dismissed, as well as his excessive force claim against defendant Moreno, leaving plaintiff free to pursue his remaining claims in the First Amended Complaint.

If plaintiff does not so respond to this Order by July 7, 2015, or fails to otherwise show cause by that date why this action should not be dismissed for failure to prosecute and/or comply with a court order, the court will deem his failure to respond as consent to the dismissal of this action for failure to prosecute and failure to comply with a court order.