

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 13-06030-ODW (AS) Date March 17, 2017

Title Oliver B. Mitchell v. United States Department of Veterans Affairs, et. al.,

Present: The Honorable Alka Sagar, United States Magistrate Judge

Alma Felix

N/A

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiff:

Attorneys Present for Defendant:

N/A

N/A

Proceedings: (IN CHAMBERS) FINAL ORDER TO SHOW CAUSE

On December 28, 2016, the Court issued an Order to Show Cause (“OSC”) why this action should not be dismissed with prejudice for failure to prosecute and failure to obey a court order. (Docket No. 69). Petitioner was directed to file a Third Amended Complaint no later than January 18, 2017 that “cures the deficiencies in the last pleading, or upon the filing of a declaration under penalty of perjury stating why Plaintiff is unable to file a Third Amended Complaint.” *Id.* This Order was issued after the Court - on December 20, 2016 - issued a notice of document discrepancy and order rejecting “Response to Order to Show Cause,” received on December 6, 2016, for failure to comply with Local Rule 11-6 (no response shall exceed 25 pages in length absent leave of Court for good cause shown). (Docket No. 68).

On January 4, 2017, Plaintiff filed a request for leave to exceed page limit which was denied by the Court on January 5, 2017. (Docket No. 73). Plaintiff was warned that the Court’s December 28, 2016 Order directing Plaintiff to file a Third Amended Complaint no later than January 18, 2017 remained in affect. *Id.*

On January 13, 2017, Plaintiff filed a 17-page declaration under penalty of perjury, challenging, *inter alia*, the Court’s previous orders dismissing his complaints with leave to amend and its denial of his request to file a 100-page response to the OSC. *See* Docket No. 74. Plaintiff claimed that he was unable to maintain information to prosecute this case due to losses and thefts of his laptop, USB drives, cellphones, computer, backpack, hard drive, and SD cards on various dates in 2015 and 2016 and “was unable to file a Third Amended Complaint by January 18, 2017 due to the recent theft of flash drives and files.” *Id.* at 16.

The Court notes that Plaintiff is proceeding pro se and does not have a lawyer. Parties to an action who are proceeding without counsel often face special challenges in federal court. Plaintiff is advised that Public Counsel runs a free Federal Pro Se Clinic at the Los Angeles federal courthouse where pro se litigants can get information and guidance. The clinic is located in Room G-19, Main Street Floor, of the United States Courthouse, 312 North Spring Street, Los Angeles, California 90012. For more information, litigants may call (213) 385-2977 (x 270) or they may visit the Pro Se Home Page found at <http://court.cacd.uscourts.gov/cacd/ProSe.nsf>. Clinic information is found there by clicking "Pro Se Clinic -

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Los Angeles." Plaintiff may wish to avail himself of the services provided by the Pro Se Clinic.

Since Plaintiff has failed to timely file a Third Amended Complaint, IT IS HEREBY ORDERED THAT Plaintiff shall, by no later than **April 17, 2017**, show cause in writing why this action should not be dismissed with prejudice for failure to prosecute and failure to obey a court order. This Order will be discharged upon the filing of a Third Amended Complaint that cures the deficiencies in the last pleading, or upon the filing of a declaration under penalty of perjury stating why Plaintiff is unable to file a Third Amended Complaint.

If Plaintiff no longer wishes to pursue this action, he may request a voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a) but Plaintiff cannot make any such request contingent on receiving other relief. A notice of dismissal form is attached for Plaintiff's convenience. **Plaintiff is warned that failure to timely respond to this Order will result in a recommendation that this action be dismissed with prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute and obey court orders.**

cc: Otis D. Wright
United States District Judge

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