

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. CV 15-5089-JVS (KLS) Date: October 5, 2015

Title Virgil E. Holt v. P. Finander, et al

Present: The Honorable: Karen L. Stevenson, United States Magistrate Judge

Roxanne Horan-Walker
Deputy Clerk

N/A
Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Proceedings: ORDER TO SHOW CAUSE FOR FAILURE TO PROSECUTE

On July 6, 2015, plaintiff, a California state prisoner proceeding *pro se* and *in forma pauperis*, filed a civil rights Complaint against the Chief Medical Executive employed by the California Department of Corrections and Rehabilitation (“CDCR”) and eight other CDCR employees on the prison medical staff. (ECF Docket No. 1.) Plaintiff alleged that the defendants violated the Eighth Amendment by being deliberately indifferent to his medical needs in connection with a fractured left wrist.

On August 24, 2015, the Court dismissed the Complaint with leave to amend due to defects in pleading. (ECF Docket No. 15). The Court ordered plaintiff to file an Amended Complaint within 30 days of the date of the Order – that is, no later than September 24, 2015 – and warned plaintiff that his failure to do so could result in the case being dismissed pursuant to Rule 41 of the Federal Rules of Civil Procedure.

Plaintiff, however, took no action in response to the Court’s August 24, 2015 Order, and more than 10 days have passed since the deadline for plaintiff to file an Amended Complaint.

A *pro se* litigant “is subject to the same rules of procedure and evidence” as other parties “who are represented by counsel.” *United States v. Merrill*, 746 F.2d 458, 465 (9th Cir. 1984). Pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, an action may be subject to involuntary dismissal if a plaintiff “fails to prosecute or to comply with these rules or a court order.” Accordingly, the Court could properly recommend

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dismissal of the action for Plaintiff's failure to timely comply with the Court's Order of August 24, 2015.

However, in the interests of justice, plaintiff is **ORDERED TO SHOW CAUSE on or before November 5, 2015**, why the Court should not recommend that this action be dismissed for failure to prosecute. If plaintiff wishes to proceed with any of the dismissed claims, he may discharge this Order by filing: (1) a declaration signed under penalty of perjury that establishes good cause for plaintiff's failure to comply with the Court's August 24, 2015 order; *and* (2) an Amended Complaint. Alternatively, if plaintiff does not wish to pursue any of the dismissed claims, he may file a Notice Of Dismissal.

Plaintiff is advised that the failure to timely respond to this order and establish good cause for his failure to comply with the August 24, 2015 order may result in the dismissal of his case pursuant to Fed. R. Civ. P. 41(b) and Local Rule 41-1.

IT IS SO ORDERED.

Initials of Preparer

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