

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES – GENERAL**

No.	CV 16-4491-JLS (AS)	Date	May 12, 2017
Title	<b>Ikey Porter Curry v. K. Seibel, et al.</b>		

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Present: The Honorable Alka Sagar, United States Magistrate Judge

Alma Felix

Deputy Clerk

Attorneys Present for Plaintiffs:

Not present

Not reported

Court Reporter / Recorder

Attorneys Present for Defendants:

Not present

**Proceedings (In Chambers):**

**Order to Show Cause Re: Lack of Prosecution**

On June 21, 2016, Plaintiff Ikey Porter Curry (“Plaintiff”) filed a pro se civil rights Complaint pursuant to 42 U.S.C. § 1983. (Docket Entry No. 1). The case was assigned to this Court, and a Notice of Assignment was mailed to Plaintiff at his address of record. (Docket Entry No. 3). On July 14, 2016, before the Court screened the initial Complaint, Plaintiff filed a First Amended Complaint. (Docket Entry No. 5). On September 8, 2016, the Court dismissed the First Amended Complaint with leave to amend. (Docket Entry No. 8). After receiving numerous extensions of time, Plaintiff filed a Second Amended Complaint on December 29, 2016. (Docket Entry No. 17).

On February 21, 2017, the Court dismissed the Second Amended Complaint with leave to file a Third Amended Complaint by March 23, 2017. (Docket Entry No. 18). Plaintiff was “explicitly cautioned that failure to timely file a Third Amended Complaint, or failure to correct the deficiencies described . . . , may result in a recommendation that this action, or portions thereof, be dismissed with prejudice for failure to prosecute and/or failure to comply with court orders.” (Id. at 16).

On March 27, 2017, Plaintiff moved for an extension of time in which to file a Third Amended Complaint. (Docket Entry No. 19). On March 28, 2017, the Court granted Plaintiff’s motion and ordered him to file a Third Amended Complaint by April 27, 2017. (Docket Entry No. 20).

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On April 3, 2017, Plaintiff filed a “Motion for Access to Prison Law Library.” (Docket Entry No. 21). On April 6, 2017, the Court denied the motion without prejudice, ruling that the Court lacked jurisdiction over the California State Prison, Los Angeles County (“CSP-LAC”), which is not a party to this action. (Docket Entry No. 22). The Court’s order also advised CSP-LAC officers that Plaintiff had a legal action pending and permitted the Plaintiff to use the Court’s order in support of any request for access to the CSP-LAC law library. (Id.).

To date, Plaintiff has failed to file a Third Amended Complaint or request a further extension of time to do so. Accordingly, Plaintiff is ORDERED TO SHOW CAUSE, in writing, no later than **June 2, 2017**, why this action should not be dismissed with prejudice for failure to prosecute. 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. A copy of the Court’s February 21, 2017 Order is attached for Plaintiff’s convenience.

**If Plaintiff no longer wishes to pursue this action, he may request a voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a). A notice of dismissal form is attached for Plaintiff’s convenience. Plaintiff is warned that a 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: Josephine L. Staton  
United States District Judge

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