

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

<b>Case No.</b>	CV 17-7219-FMO (SP)	<b>Date</b>	May 30, 2018
<b>Title</b>	CALVIN WARR v. DEBBIE ASUNCION, et al.		

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**Present: The Honorable Sheri Pym, United States Magistrate Judge**

Kimberly Carter

None Appearing

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiff(s):

Attorneys Present for Defendant(s):

None Appearing

None Appearing

**Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE WHY COMPLAINT SHOULD NOT BE DISMISSED FOR FAILURE TO PROSECUTE AND FAILURE TO PAY INITIAL PARTIAL FILING FEE**

On September 29, 2017, plaintiff Calvin Warr, a California prisoner proceeding pro se, lodged a civil rights complaint pursuant to 42 U.S.C. § 1983. His complaint alleged correctional officers used excessive force during a body search for contraband at the California State Prison, Los Angeles County in Lancaster. On March 8, 2018, this court, having completed screening of the complaint, found it subject to dismissal in large part. The court granted plaintiff leave to file a First Amended Complaint by April 9, 2018. Alternatively, if plaintiff wished to proceed on the complaint only as to his excessive force claim against defendants A. Lopez and Rose, the court gave plaintiff the option of voluntarily dismissing the remaining defendants by April 9, 2018.

Also on March 8, 2018, the court granted plaintiff permission pursuant to 28 U.S.C. § 1915(b)(1) to proceed in the above-referenced action without pre-paying the full filing fee of \$350.00, but plaintiff was ordered to pay an initial partial filing fee, in the amount of \$9.83, within thirty days to the Clerk of Court, that is, also by April 9, 2018.

Nearly two months have passed beyond the April 9 deadline to both: (1) either file a First Amended Complaint or file a notice of dismissal of certain defendants; and (2) pay the \$9.83 initial partial filing fee. The court has not received a First Amended Complaint, notice of dismissal, payment, or any other communication from plaintiff.

Accordingly, within **twenty-one (21)** days of the date of this Order, that is, by June 20, 2018, plaintiff is **ORDERED TO SHOW CAUSE**, in writing, why this action

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should not be dismissed for failure to prosecute and/or comply with court orders. Plaintiff is cautioned that his failure to timely file a response to this Order to Show Cause will be deemed by the court as consent to the dismissal of this action without prejudice.

If plaintiff (1) files either a First Amended Complaint or notice voluntarily dismissing all defendants except A. Lopez and Rose, and (2) also pays the initial partial filing fee by June 20, 2018, this Order to Show Cause will be automatically discharged, and plaintiff need not respond to it separately. In the event plaintiff wishes to voluntarily dismiss this action in its entirety, plaintiff may complete and return the enclosed Notice of Dismissal form so indicating by June 20, 2018.