

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. CV 18-3021-JLS (KS) Date: March 4, 2019

Title *Marquise Caliz v. Argueta et al*

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

Chris Silva
Deputy Clerk

N/A
Court Reporter / Recorder

Attorneys Present for Plaintiffs:
N/A

Attorneys Present for Defendants:
N/A

Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE RE: LIFTING STAY

On April 10, 2018, Marquise Caliz (“Plaintiff”), a California state prisoner proceeding *pro se* and *in forma pauperis* (“IFP”), filed a civil rights complaint (“Complaint”), alleging failure to intervene and excessive force claims against Sergeant Argueta and five unknown Los Angeles County Sheriff’s Department officers at Men’s Central Jail. (Dkt. No. 1.) On August 1, 2018, Plaintiff filed a First Amended Complaint (the “FAC”) (Dkt. No. 8), which the Court ordered served on Defendant Argueta (Dkt. Nos. 10-12).

On August 2, 2018, Plaintiff filed a Request for Early Discovery (the “Request”), in which Plaintiff asks the Court to authorize early discovery so that Plaintiff can identify the names of the Doe Defendants. (Dkt. No. 9.) On December 13, 2018, Defendant Argueta filed a Motion to Dismiss the FAC. (Dkt. No. 16.) On December 14, 2018, the Court granted Plaintiff’s Request for Early Discovery in part and stayed briefing on the Motion to Dismiss pending the outcome of the early discovery. (Dkt. No. 19.) Specifically, the Court authorized Plaintiff to serve an interrogatory on Defendant Argueta to learn the identities of the Los Angeles County Sheriff’s Deputies whom Plaintiff named as Doe Defendants in the FAC and whom Defendant Argueta allegedly watched use force against Plaintiff on April 9, 2014 at the Men’s Central Jail. (*Id.*) The Court ordered Plaintiff to file, no later than February 18, 2019, one of the following: (1) a motion for leave to file a Second Amended Complaint, with a copy of the proposed Second Amended Complaint that identified all defendants by name; (2) a Status Report stating that either Plaintiff had not received a response to the interrogatory or the interrogatory response did not identify some or all of the Doe Defendants; or (3) a signed Notice of Voluntary Dismissal of the Doe Defendants named in the FAC. (*Id.*)

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Fourteen days have now passed since Plaintiff's Motion for Leave to File a Second Amended Complaint, Status Report, or Notice of Voluntary Dismissal was due, and Plaintiff has yet to comply with the Court's Order and file one of these documents. Accordingly, on February 20, 2019, Defendant Argueta requested that the Court lift the stay on his Motion to Dismiss. (Dkt. No. 28.)

In light of the foregoing, Plaintiff is ORDERED TO SHOW CAUSE no later than March 25, 2019, why the Doe Defendants should not be dismissed and the stay on the Motion to Dismiss lifted. To discharge this Order, Plaintiff shall file one of the following no later than the March 25, 2019 deadline:

- (1) A signed request for an extension of time, which articulates good cause for Plaintiff's delay in responding to the Court's December 14, 2018 Order;
- (2) A motion for leave to file a Second Amended Complaint, with a copy of the proposed Second Amended Complaint attached to the motion as an exhibit. **The Proposed Second Amended Complaint must identify all defendants by name, be complete in itself without reference to Plaintiff's prior pleadings, and present sufficient specific factual allegations to support the inference that the named defendants violated Plaintiff's constitutional rights;**
- (3) A Status Report stating that either Plaintiff has not received a response to the interrogatory or the interrogatory response did not identify some or all of the Doe Defendants. **Plaintiff shall attach to the Status Report a copy of the interrogatory served on Defendant Argueta, including the proof of service, and a copy of any response received from Defendant Argueta to the interrogatory;** or
- (4) A signed Notice of Voluntary Dismissal of the Doe Defendants named in the FAC.

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Plaintiff is advised that the failure to timely comply with this order may result in the dismissal of this case as to all or some of the defendants pursuant to Fed. R. Civ. P. 41(b) and Local Rule 41-1.

IT IS SO ORDERED.

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