

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.: CV 20-9430-DSF (RAO) Date: August 17, 2022
Title: Darren L. Harris v. Correctional Officer A. Ayon et al.

Present: The Honorable **ROZELLA A. OLIVER, U.S. MAGISTRATE JUDGE**

Donnamarie Luengo
Deputy Clerk

N/A
Court Reporter / Recorder

Attorneys Present for Plaintiff(s):

Attorneys Present for Defendant(s):

N/A

N/A

Proceedings: (In Chambers) **ORDER TO SHOW CAUSE**

On April 14, 2022, the Court dismissed certain claims of the First Amended Complaint (“FAC”) with leave to amend. Dkt. No. 16. The order directed Plaintiff to re-submit a request to proceed *in forma pauperis* (“IFP Request”) and choose an option to proceed by May 16, 2022. *Id.* On May 18, 2022, Plaintiff requested an extension of time to file an amended complaint. Dkt. No. 17. On May 27, 2022, the Court granted the requested extension. Dkt. No. 18. Plaintiff was directed to file his response to the April 14, 2022 order and re-submit his IFP Request by July 7, 2022. *Id.* The Court warned Plaintiff that failure to meet the deadline would result in a recommendation that the matter be dismissed. *Id.*

On July 11, 2022, Plaintiff filed an IFP Request. Dkt. No. 19. However, Plaintiff has not filed an amended complaint or other response electing an option to proceed as set forth in the April 14, 2022 order. **Plaintiff is ordered to show cause, in writing, no later than September 16, 2022**, why this case should not be dismissed under Federal Rule of Civil Procedure 41(b) for failure to prosecute and comply with court orders. Alternatively, Plaintiff may discharge this Order by choosing one of the options provided in the April 14, 2022 order. The Court repeats the options as follows:

1. Plaintiff may file a Second Amended Complaint to attempt to cure the deficiencies addressed in the April 14, 2022 order. **Plaintiff is forewarned that the Court is not inclined to grant further leave to amend claims that remain deficient in the Second Amended Complaint.** The amended complaint must: (a) be labeled “Second Amended Complaint”; (b) be complete in and of itself and not refer in any manner to prior complaints, *i.e.*, it must include all of the claims on which Plaintiff seeks to

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- proceed, Local Rule 15-2; (c) contain a “short plain” statement of the claim(s) for relief, *see* Fed. R. Civ. P. 8(a); (d) make each allegation “simple, concise and direct,” Fed. R. Civ. P. 8(d)(1); (e) make allegations in numbered paragraphs, “each limited as far as practicable to a single set of circumstances,” Fed. R. Civ. P. 10(b); (f) set forth clearly the sequence of events giving rise to the claims for relief; and (g) allege with sufficient specificity what each defendant did and how that individual’s conduct violated Plaintiff’s civil rights.
2. Plaintiff may file a Notice of Dismissal, which voluntarily dismisses **all claims except for** his Fourteenth Amendment procedural due process claim against Defendants Ayon and Martinez. The case will proceed with service on Defendants Ayon and Martinez as to the Fourteenth Amendment claim.
 3. Plaintiff may elect to proceed on the FAC without amendment by filing a response to this order indicating so. The Court will then recommend to the District Judge that **all claims except for** the Fourteenth Amendment claim against Defendants Ayon and Martinez be dismissed without leave to amend.

The Court reminds Plaintiff that it is not inclined to grant any further extensions for Plaintiff to choose an option from the April 14, 2022 order. *See* Dkt. No. 18. **Plaintiff is expressly cautioned that failure to timely file a response to this Order will result in dismissal of this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).**

IT IS SO ORDERED.

Initials of Preparer _____ : _____
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