UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.	CV 22-7723 JFW (KS)	Date: January 18, 2023
Title	<u>Miguel Angel Sanchez v. A. Robles et al.</u>	

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

Gay Roberson Deputy Clerk N/A Court Reporter / Recorder

Attorneys Present for Plaintiffs: N/A Attorneys Present for Defendants: $$\mathrm{N}/\mathrm{A}$$

Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE RE: DISMISSAL

On October 21, 2022, Miguel Angel Sanchez ("Plaintiff"), a California inmate proceeding *pro se* and *in forma pauperis*, filed a civil rights complaint ("Complaint") alleging that correctional staff at California State Prison, Los Angeles County ("CSP-LAC") used excessive force on him in violation of thr Eighth Amendment to the U.S. Constitution. (Dkt. No. 2.) Plaintiff filed the Complaint against two correctional officers, a correctional sargeant, a correctional lieutenant, and the warden of CSP-LAC. (*Id.* at 3-4.) Plaintiff sues all Defendants in their official capacities only. (*Id.*)

On November 22, 2022, the Court identified multiple deficiencies with the Complaint – failure to adhere to the pleading requirements of Federal Rule of Civil Procedure 8, failure to state claims in numbered paragraphs in violation of Federal Rule of Civil Procedure 10, failure to state claims under either the Americans with Disability Act or Section 504 of the Rehabilitation Act, and failure to adequately state claims against prison officials in their official capacities – and dismissed the Complaint with leave to amend. (Dkt. No. 8.) The Court ordered Plaintiff to file a First Amended Complaint correcting the identified defects within 30 days, *i.e.*, no later than December 22, 2022, and warned Plaintiff that his failure to do so may result in a recommendation of dismissal. (*Id.* at 11-12.)

Nearly a month has now passed since Plaintiff's deadline for filing a First Amended Complaint, but no First Amended Complaint has been filed.

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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 dismissal of the action for Plaintiff's failure to timely comply with the Court's November 22, 2022 Memorandum and Order directing Plaintiff to file a First Amended Complaint.

However, in the interests of justice, Plaintiff is **ORDERED TO SHOW CAUSE on or before February 8, 2023**, why the Court should not recommend that this action be dismissed for the failure to prosecute. Plaintiff may discharge this Order by filing: (1) a First Amended Complaint that cures the defects the Court identified in the original Complaint; or (2) a request for an extension of time to file a First Amended Complaint and a declaration signed under penalty of perjury, explaining why Plaintiff failed to comply with the Court's November 22, 2022 Memorandum and Order.

Alternatively, if Plaintiff does not wish to pursue this action, he may dismiss the Complaint without prejudice by filing a signed document entitled "Notice Of Voluntary Dismissal" pursuant to Rule 41(a)(1)(A).

PLAINTIFF IS WARNED THAT THE FAILURE TO RESPOND TO THIS ORDER <u>WILL</u> RESULT IN A RECOMMENDATION OF DISMISSAL.

IT IS SO ORDERED.

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