

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

No.	CV 16-150 JFW (AS)	Date	March 17, 2017
Title	Emmit Williams v. County of San Bernardino		

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):

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

On October 3, 2016, the Court issued an Order to Show Cause (“OSC”) why this action should not be dismissed with prejudice for failure to prosecute. The Court’s Order noted that (1) Plaintiff’s initial *pro se* civil rights Complaint, pursuant to 42 U.S.C. § 1983 had been dismissed by the Court with leave to amend on February 29, 2016 (Docket Entry No. 6), Plaintiff’s First Amended Complaint had been dismissed with leave to amend on April 18, 2016 (Docket Entry No.8), and Plaintiff’s Second Amended Complaint had been dismissed with leave to amend on July 1, 2016 (Docket Entry No. 10). On August 3, 2016, the Court granted Plaintiff’s Request for an Extension of Time to File a Third Amended Complaint and ordered Plaintiff to file a Third Amended Complaint no later than September 1, 2016 (Docket Entry No. 12); (2) Plaintiff had failed to file a Third Amended Complaint or request an extension of time to do so; and (3) directed Plaintiff to show cause - no later than November 2, 2016 - why this action should not be dismissed for failure to prosecute. See Docket Entry No. 13.

On November 2, 2016, Plaintiff filed a response to the OSC stating that he had “submitted for filing three actual complaints including a Third Amended Complaint in July 2016[]” which was “apparently misfiled by the clerk[.]” (Docket Entry No. 14). Plaintiff’s claim to have filed a Third Amended Complaint is contradicted by his request - dated July 27, 2016 - for an extension of time to file a Third Amended Complaint based on the fact that he did not receive the Court’s July 1, 2016 Order until July 22, 2016 and because “plaintiff’s claims are complex in nature, as (sic) such an exten[s]ion will help plaintiff clarify his claim.” See Docket Entry No. 11 at 2. Moreover, there is no indication on the Court’s electronic docket, that a Third Amended Complaint was filed in this Court.

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Accordingly, Plaintiff is **ORDERED TO SHOW CAUSE**, in writing, no later than **Monday, April 17, 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 he is unable to file a Third Amended Complaint.

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: John F. Walter
United States District Judge

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