

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. **EDCV 17-758-KK**

Date: March 1, 2018

Title: ***Francisca Crosthwaite v. County of San Bernardino, et al.***

Present: The Honorable **KENLY KIYA KATO, UNITED STATES MAGISTRATE JUDGE**

DEB TAYLOR

Not Reported

Deputy Clerk

Court Reporter

Attorney(s) Present for Plaintiff(s):

Attorney(s) Present for Defendant(s):

None Present

None Present

Proceedings: (In Chambers) Order to Show Cause Why Action Should Not Be Dismissed for Failure to Prosecute and Comply with Court Orders

On April 19, 2017, Plaintiff Francisca Crosthwaite (“Plaintiff”) filed a Complaint against Defendants County of San Bernardino, Sheriff John McMahon, Deputy T. Verral, Deputy Pangburn, Deputy Trevor James, and Deputy Tommy Dickey (“Defendants”) alleging a violation of her Fourth Amendment rights as well as state law claims for “arrest without probable cause,” malicious prosecution, and intentional infliction of emotional distress arising out of an incident that occurred on March 18, 2016. ECF Docket No. (“Dkt.”) 1. Plaintiff alleges her purse was seized without probable cause, she was transported in the backseat of a police car against her will, and then beaten by Deputy Verral while other officers failed to intervene. *Id.*

On May 6, 2016, Plaintiff was charged in The People of the State of California v. Francisca Bajarrano Crosthwaite, Victorville Superior Court Case No. 16-CR-17873, with misdemeanor resisting an officer on March 18, 2016 in violation of section 69-M of the California Penal Code. Dkt. 15 at 6-7, Declaration of Janine Highiet-Ivicevic, ¶ 2, Ex. 2.

On August 31, 2017, the Court granted Defendants’ unopposed Motion to Stay the action pending the resolution of Plaintiff’s criminal case. Dkt. 26. The parties were ordered to file a joint status report every sixty (60) days regarding the status of the pending criminal case. *Id.*

The parties filed their last Joint Status Report on December 21, 2017. Dkt. 28. A status report was, thus, due on or about February 19, 2018. Almost two weeks have passed since the

February 19, 2018 deadline, and the parties have failed to file a status report. Nor has Plaintiff made any other communication with the Court. Plaintiff is therefore in violation of the August 31, 2017 Order.

Consequently, under Federal Rule of Civil Procedure 41(b), the Court may dismiss an action with prejudice for lack of prosecution or for failure to comply with any court order. See Fed. R. Civ. P. 41(b). However, before dismissing this action, the Court will afford Plaintiff an opportunity to explain her failure to file a status report as directed by this Court's August 31, 2017 Order.

Accordingly, Plaintiff is **ORDERED TO SHOW CAUSE** in writing why this action should not be dismissed for failure to prosecute and/or comply with court orders. Plaintiff shall have **up to and including March 8, 2018** to respond to this Order. Plaintiff may discharge this Order to Show Cause by filing the required status report **by March 8, 2018**.

Plaintiff is expressly warned that failure to timely file a response to this Order will result in this action being dismissed with prejudice for failure to prosecute and comply with Court orders. See Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.