

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES – GENERAL

Case No. 5:20-cv-01564-JWH-KES

Date: October 13, 2020

Title: PAUL B. MYERS v. UNKNOWN

PRESENT:

THE HONORABLE KAREN E. SCOTT, U.S. MAGISTRATE JUDGE

Jazmin Dorado
Courtroom Clerk

Not Present
Court Reporter

ATTORNEYS PRESENT FOR
PLAINTIFF:
None Present

ATTORNEYS PRESENT FOR
DEFENDANTS:
None Present

PROCEEDINGS (IN CHAMBERS):

**Order to Show Cause Why this Action
Should Not Be Dismissed**

On August 6, 2020, the Court received a letter from Paul B. Myers (“Plaintiff”), a state prisoner housed at the Chino Institution for Men (“CIM”). (Dkt. 1.) Plaintiff alleged that, due to a recent suicide attempt, he was transferred from R.J. Donovan Correctional Facility (“RJD”) to a mental health crisis bed at CIM. He alleged that he expected to be transferred the general population yard at CIM, where he would face imminent danger of violence and receive inadequate mental health treatment. He requested an immediate transfer to the state mental hospital, to a mental health crisis bed at another institution, or back to his prior yard at RJD.

The Court construed the letter as a pro se civil rights complaint bringing claims under 42 U.S.C. § 1983 and the Eighth Amendment. (Dkt. 5.) The Court dismissed the complaint without prejudice and with leave to amend and instructed Plaintiff to pay the filing fee or file a declaration to proceed without prepayment of the fee. (Id.) The Court also sent a letter to the warden of CIM informing her of Plaintiff’s concerns. (Dkt. 6.)

Plaintiff’s deadline to file a First Amended Complaint and application to proceed without prepayment of the filing fee passed on September 21, 2020, and as of the date of this Order, the Court has not received any further filings from Plaintiff.

IT IS HEREBY ORDERED that, **on or before November 6, 2020**, Plaintiff shall show cause why this action should not be dismissed for lack of prosecution and/or failure to follow this Court’s orders.

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Plaintiff may discharge this Order to Show Cause by either: (a) filing a First Amended Complaint that attempts to remedy the defects identified in the Court's screening order; (b) explaining why he missed the most recent deadline to do so and demonstrating good cause for an extension of the deadline; or (c) filing a notice of voluntary dismissal of this action.

The Clerk is directed to provide Plaintiff with the standard form for filing a notice of voluntary dismissal (Form CV-09).

If Plaintiff fails to respond to this Order to Show Cause, the Court may dismiss this action for lack of prosecution and/or failure to follow the Court's orders.

Initials of Deputy Clerk JD

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CASE NUMBER

v.
Plaintiff(s),

Defendant(s).

**NOTICE OF DISMISSAL PURSUANT
TO FEDERAL RULES OF CIVIL
PROCEDURE 41(a) or (c)**

PLEASE TAKE NOTICE: (*Check one*)

- This action is dismissed by the Plaintiff(s) in its entirety.
- The Counterclaim brought by Claimant(s) _____ is dismissed by Claimant(s) in its entirety.
- The Cross-Claim brought by Claimants(s) _____ is dismissed by the Claimant(s) in its entirety.
- The Third-party Claim brought by Claimant(s) _____ is dismissed by the Claimant(s) in its entirety.
- ONLY** Defendant(s) _____

_____ is/are dismissed from (*check one*) Complaint, Counterclaim, Cross-claim, Third-Party Claim brought by _____.

The dismissal is made pursuant to F.R.Civ.P. 41(a) or (c).

Date

Signature of Attorney/Party

NOTE: F.R.Civ.P. 41(a): This notice may be filed at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs.

F.R.Civ.P. 41(c): Counterclaims, cross-claims & third-party claims may be dismissed before service of a responsive pleading or prior to the beginning of trial.