

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. EDCV 21-0231-CJC (KS) Date: April 1, 2021Title *Willie James Brunt v. United States of America et al*Present: The Honorable: Karen L. Stevenson, United States Magistrate JudgeGay Roberson
Deputy ClerkCourt Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

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

On February 3, 2021, Willie James Brunt (“Plaintiff”), a federal prisoner proceeding *pro se* and *in forma pauperis*, filed a civil rights complaint (the “Complaint”) against the United States of America and three known and unknown compound workers at his facility in Adelanto California. (Dkt. No. 1.) On February 18, 2021, the Court dismissed the Complaint for failure to state a claim upon which relief could be granted and ordered Plaintiff to file, within twenty-one (21) days, a First Amended Complaint correcting the defects identified by the Court. (Dkt. No. 5.) On February 25, 2021, March 2, 2021, and March 5, 2021 respectively, the United States Postal Service returned to the Court as undeliverable the following orders: (1) the Court’s February 10, 2021 Notice of Assignment (Dkt. No. 6); (2) the Court’s February 18, 2021 Order dismissing the Complaint for failure to state a claim (Dkt. No. 7); and (3) the Court’s February 12, 2021 Order granting Plaintiff’s request to proceed *in forma pauperis* (Dkt. No. 8).

More than 30 days have passed since the Court’s February 10, 2021 Notice of Assignment was returned to the Court marked undeliverable, and three weeks have passed since Plaintiff’s First Amended Complaint was due. To date, Plaintiff has neither filed the First Amended Complaint nor notified the Court of a change of address, and he has not communicated with the Court about his case since filing it almost two months ago.

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

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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 February 18, 2021 Order.

In addition, Local Rule 41-6 states that “[i]f mail directed by the Clerk to a *pro se* plaintiff’s address of record is returned undelivered by the Postal Service, and if, within fifteen (15) days of the service date, such plaintiff fails to notify, in writing, the Court and opposing parties of said plaintiff’s current address, the Court may dismiss the action.” Thus, because more than 30 days have passed since the Court’s February 10, 2021 Notice of Assignment was returned undelivered by the Postal Service, and Plaintiff has not notified the Court of his current address, the Court has a second basis for recommending dismissal for want of prosecution.

However, in the interests of justice, Plaintiff is **ORDERED TO SHOW CAUSE on or before April 22, 2021**, why the Court should not recommend that this action be dismissed for failure to prosecute. Plaintiff may discharge this Order by filing:

- (1) a request for an extension of time to file a First Amended Complaint and a declaration signed under penalty of perjury that establishes good cause for Plaintiff’s failure to comply with the Local Rules; or
- (2) a First Amended Complaint.

Alternatively, if Plaintiff does not wish to pursue this action, he may dismiss the case without prejudice by filing a signed document entitled “Notice Of Voluntary Dismissal” pursuant to Fed. R. Civ. P. 41(a).

Plaintiff is advised that his failure to timely comply with this order will lead the Court to recommend dismissal pursuant to Local Rule 41-6 and Rule 41(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

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