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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIAM JAMES,
Plaintiff,
v.
COUNTY OF SACRAMENTO, et al.,
Defendants.

No. 2:10-cv-00664-MCE-AC

ORDER

Plaintiff William James ("Plaintiff") brought this civil rights action against the County of Sacramento, Sheriff John McGinness, and various employees at the Sacramento County Main Jail (collectively, "Defendants") in 2010. In doing so, Plaintiff requests monetary damages because Defendants purportedly violated his rights under the Fourteenth Amendment, the Americans with Disabilities Act and the Rehabilitation Act when Plaintiff was held as a pretrial detainee.

On two separate occasions, this Court has been prepared to try Plaintiff's case, but Plaintiff failed to file his trial documents by the deadlines set by the Court, failed to meet and confer with Defendants, and failed to collaborate with Defendants on jury instructions, a verdict form, and a statement of the case. The first time this happened, the Court continued Plaintiff's trial and warned him that his failure to meet and confer with Defendants prior to the new trial date, or to submit the required trial documents

1 could result in dismissal. Nevertheless, despite having more than eight additional
2 months to file the necessary documents, Plaintiff again failed to comply. His repeated
3 failures to meet the Court's more than reasonable deadlines are inexcusable. Plaintiff's
4 Complaint is consequently DISMISSED with prejudice.

5 6 **BACKGROUND**

7
8 On February 11, 2015, the Court issued a Supplemental Pretrial Order (ECF
9 No. 64) in this case scheduling a three-day jury trial to commence on March 30, 2015.
10 That Supplemental Pretrial Order directed the parties to meet and confer in order to file a
11 joint statement, jury instructions, and a verdict form by March 16, 2015. The parties
12 were also directed to file individual trial briefs by that same date.

13 Defendants timely filed all of the required documents. Plaintiff, however, did not
14 meet and confer with Defendants on the joint documents, and did not file a trial brief. As
15 a result, the next day the Court issued an Order to Show Cause ("OSC") (ECF No. 76)
16 giving Plaintiff ten days to respond. That same day, Plaintiff filed jury instructions, a
17 verdict form, proposed voir dire questions, his witness list, and his exhibit list. On
18 March 26, 2015, Plaintiff filed his trial brief and a declaration responding to the OSC.
19 Plaintiff explained that he had relied on a paralegal to file his documents by the March
20 16th deadline and was surprised to learn both that some documents had not been filed
21 until the following day and that the trial brief was not filed at all. Plaintiff did not address
22 why he had failed to collaborate with Defendants on the joint documents required by the
23 Supplemental Pretrial Order. Despite these failures, the Court declined to dismiss the
24 action given Plaintiff's quick response, the apparent clerical error that caused the delay
25 in filing, and his pro se status. The Court instead set a new trial for January 11, 2016,
26 and ordered the parties to file the necessary jointly prepared trial documents no later
27 than December 28, 2015. ECF No. 87. The Court's order specifically warned that failure
28 to comply with the included directives could lead to dismissal of the action. Id.

1 On December 28, 2015, Defendants filed the required pretrial documents without
2 Plaintiff's input. Defense counsel Amanda McDermott ("McDermott") averred that she
3 had met and conferred with Plaintiff in July 2015, but was unable to reach an agreement.
4 ECF No. 98-1. The parties were scheduled to meet and confer again in December
5 2015, but by December 22, 2015, appeared to reach a tentative settlement agreement.
6 A few days later, on December 28, 2015, however, Plaintiff contacted McDermott's
7 office, declined to speak with her, and informed her assistant that he would no longer
8 settle this action and would instead proceed to trial. Id. McDermott attempted to contact
9 Plaintiff, but was unable to do so. Id. The Court subsequently issued another OSC as to
10 why this case should not be dismissed for Plaintiff's failure to comply with the Court's
11 pretrial deadlines on December 29, 2015.

12 On January 4, 2016, Plaintiff filed a proposed verdict form. Two days later, he
13 filed a pretrial statement, proposed jury instructions, and a notice of late filing (ECF
14 No. 103). In Plaintiff's words:

15 Plaintiff has been experiencing severe depression/anxiety as
16 a result of injuries in this case ultimately the stress of
17 everyday life and as well as struggling to adhere to the rules
18 of the court and negotiating with defendants has taken its toll
19 on plaintiff as plaintiff was unable to complete the jury
20 instruction process with defendants. Plaintiff was admitted
21 into Heritage Oaks Hospital on December 15 and discharged
22 on December 28th missing the courts filing deadline. Plaintiff
23 has spoken with Ms. McDormatt, defendants attorney, on
24 several occasions prior to filing and believed that the parties
25 would come to a settlement agreement.

26 ECF No. 103. Plaintiff requested that the Court consider his mental state at the time the
27 documents were due to be filed, and attached a document purporting to verify his
28 hospitalization from December 15 through December 28.

29 Defendants filed their response to the Court's second OSC on January 7, 2016.
30 ECF No. 104. McDermott averred that she had several conversations with Plaintiff about
31 settlement during days on which Plaintiff claimed to be hospitalized. McDermott's
32 declaration also states that Plaintiff did not inform her of his hospitalization until
33 December 31, 2015.

1 it more difficult for Defendants to defend their case. Accordingly, this factor also weighs
2 in favor of Defendants.

3 The reason for the delay also favors Defendants in that there is not a particularly
4 good one.² Although Plaintiff claims to have been hospitalized from December 15 to
5 December 28, he never communicated this to Defendants, even though he apparently
6 managed to engage in settlement negotiations from the hospital. Indeed, Plaintiff was
7 able to call McDermott's office after he decided not to go through with a settlement on
8 December 28, 2015, but was not willing to speak directly with counsel. Instead, Plaintiff
9 left a message with defense counsel's assistant and then refused to meet and confer
10 regarding the necessary trial documents. ECF No. 104 at ¶¶ 6-7. Plaintiff's contention
11 that he was unable to meet and confer regarding trial documents due to his
12 hospitalization and subsequent discharge simply does not make sense in light of his
13 other conduct.

14 But even if Plaintiff's hospitalization had prevented him from filing the necessary
15 trial documents between December 15 and December 28, there were still seven months
16 and three weeks before his hospitalization during which he could have attempted to
17 comply with the Court's order. See ECF No. 87 (docketed on April 21, 2015). As other
18 courts recognize, the fact that Plaintiff was hospitalized does not excuse the period of
19 time when he was not hospitalized. See Gibbons v. United States, 317 F.3d 852, 855
20 (8th Cir. 2003); see also Magraff v. Lowes HIW, Inc., 217 F. App'x 759, 761-62 (10th Cir.
21 2007) ("Magraff's counsel deliberately waited until the end of the thirty-day period to file
22 the notice of appeal, increasing the risk that unforeseen events, including illness, might
23 interfere with his ability to meet the deadline.").

24 This sequence of events also leads to the conclusion that Plaintiff's conduct was
25 not in good faith. In renegeing on the tentative settlement agreement he reached with
26 Defendants, Plaintiff refused to speak with defense counsel and did not return her calls

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28 ² For the purposes of this order, the Court accepts as true Plaintiff's representation that he was
hospitalized from December 15 through December 28, 2015.

1 for three days. ECF No. 104 at ¶¶ 7-9. He also apparently did not inform defense
2 counsel of his hospitalization, even though he spoke with her while he was hospitalized.
3 Id. at ¶¶ 3-4, 9-10. Accordingly, the final Pioneer factor favors Defendants as well.

4 Given that each of the Pioneer factors cuts against a finding that Plaintiff's late
5 filing of his trial documents results from excusable neglect, the Court declines to accept
6 Plaintiff's late filings. Furthermore, given the Court's caseload, the length of time this
7 case has been pending, and Plaintiff's repeated refusal to comply with the Court's
8 deadlines, the Court will dismiss Plaintiff's claims. "It is well established that district
9 courts have inherent power to control their docket." Atchison, Topeka & Santa Fe Ry. v.
10 Hercules, Inc., 146 F.3d 1071, 1074 (9th Cir. 1998) (internal quotation marks omitted).
11 The Court's power to control its docket includes dismissal as a sanction, particularly
12 where a litigant has engaged in abusive conduct. Id. Plaintiff has had two separate
13 opportunities to try his claims. On both occasions, he has failed to comply with basic,
14 court-ordered deadlines. He has twice been warned that such failures could result in
15 dismissal of his claims. The Court declines to provide him with yet another opportunity.
16 There are already too many deserving litigants in the Eastern District of California who
17 manage to meet deadlines far less generous than the ones imposed in this matter, and
18 Plaintiff's conduct here has delayed their access to justice. Accordingly, the Court
19 hereby DISMISSES Plaintiff's claims with prejudice.

20
21 **CONCLUSION**

22 This action is hereby DISMISSED with prejudice in its entirety. The Clerk of Court
23 is directed to close the case and enter judgment for Defendants.

24 IT IS SO ORDERED.

25 Dated: January 22, 2016

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MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT