

UNITED STATES COURT OF APPEALS

FILED

FOR THE NINTH CIRCUIT

JAN 25 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

R. J. KULICK,

Plaintiff-Appellant,

v.

PATRICK SOON-SHIONG; et al.,

Defendants-Appellees.

No. 21-55728

D.C. No. 2:21-cv-02471-SB-PVC
Central District of California,
Los Angeles

ORDER

Before: SILVERMAN, GRABER, and BENNETT, Circuit Judges.

Kulick's petition for panel rehearing (Docket Entry No. 10) is denied.

No further filings will be entertained in this closed case.

NOT FOR PUBLICATION

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UNITED STATES COURT OF APPEALS

OCT 18 2022

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

R. J. KULICK,

Plaintiff-Appellant,

v.

PATRICK SOON-SHIONG; MICHELE B.
CHAN; JEFF GLASSER; LOS ANGELES
TIMES; DOES, 1-100, inclusive,

Defendants-Appellees.

No. 21-55728

D.C. No. 2:21-cv-02471-SB-PVC

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Stanley Blumenfeld, Jr., District Judge, Presiding

Submitted October 12, 2022**

Before: SILVERMAN, GRABER, and BENNETT, Circuit Judges.

R.J. Kulick appeals pro se from the district court’s order without prejudice
dismissing for lack of prosecution his action alleging federal and state law claims.

We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision
without oral argument. *See* Fed. R. App. P. 34(a)(2).

discretion a dismissal for failure to prosecute. *Lal v. California*, 610 F.3d 518, 523 (9th Cir. 2010). We affirm.

The district court did not abuse its discretion by dismissing Kulick’s action because Kulick failed to comply with a court order to show cause regarding service, despite the district court’s warning that failure to serve the complaint would result in dismissal for failure to prosecute. *See* Fed. R. Civ. P. 41(b) (district court may dismiss an action “[i]f the plaintiff fails to prosecute or to comply with these rules or a court order”); *Pagtalunan v. Galaza*, 291 F.3d 639, 640-43 (9th Cir. 2002) (discussing factors to be considered before dismissing a case for failure to prosecute; a district court's dismissal should not be disturbed absent “a definite and firm conviction” that it “committed a clear error of judgment” (citations and internal quotation marks omitted)); *see also* Cal. Civ. Proc. Code § 414.10 (“A summons may be served by any person . . . not a party to the action.”).

AFFIRMED.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.: CV 21-02471 SB (PVCx)

Date: June 17, 2021

Title: *RJ Kulick v. Patrick Soon Shiong et al*

Present: The Honorable **STANLEY BLUMENFELD, JR., U.S. District Judge**

Victor Cruz
Deputy Clerk

Not Present
Court Reporter

Attorney(s) Present for Plaintiff(s):
Not Present

Attorney(s) Present for Defendant(s):
Not Present

Proceedings: In Chambers: RE FAILURE TO RESPOND TO OSC

On 5/28/2021, the Court issued an Order to Show Cause re dismissal for Plaintiff's lack of prosecution. The Court advised Plaintiff that it would consider Plaintiff's filing of the proof of service of summons and complaint as an appropriate response to this Order to Show Cause, on or before 6/16/2021. Plaintiff filed a response on 6/7/21 but did not file the proof of service as required by the Order to Show Cause. Because Plaintiff has failed to comply, the Court hereby **DISMISSES** this case for lack of prosecution, without prejudice.

JS-6