

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Miles v. Fresno County Medical WellPath

Miles · No. 1:22-cv-01105-KES-SKO (PC) · Decided May 14, 2025

OPINION

1 2 3 4 5 6 UNITED STATES DISTRICT COURT 7 EASTERN DISTRICT OF CALIFORNIA 8
9 SAMUEL JAY MILES, 1:22-cv-01105-KES-SKO (PC) 10 Plaintiff, ORDER ADOPTING
FINDINGS AND RECOMMENDATIONS 11 v. TO DISMISS CERTAIN DEFENDANTS AND
TO ALLOW CLAIMS AGAINST 12 FRESNO COUNTY MEDICAL REMAINING
DEFENDANTS TO WELLPATH, PROCEED 13 Defendant. (Doc. 24) 14 15 16 Plaintiff Samuel
Jay Miles is incarcerated in the Fresno County Jail and is proceeding pro 17 se and in forma
pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983.

This matter 18 was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)
(B) and Local 19 Rule 302. 20 On September 20, 2024, the Court granted plaintiff's motion to
substitute the full names 21 of Kenneth Cagara and Michellene Alvarez and directed the Clerk of
Court to add the following 22 individuals as defendants: Kanwar Gill, Johana Luna, Britney
Buchanan, Jessica Nunez, Rose 23 Zaragoza, Ray Arce, Maria Guerrero, Cindy Ramirez, Candice
Thao, Annabel Duran, and Soua 24 Xiong.

Doc. 21. The Court also directed plaintiff to file a second amended complaint to state 25 sufficient
facts linking each named defendant to an alleged constitutional violation. Id. at 2-3. 26 Plaintiff
filed his second amended complaint on October 7, 2024. Doc. 22. 27 On March 21, 2025,
following screening, the assigned magistrate judge issued findings 28 and recommendations to
allow the claims against certain defendants to proceed, but to dismiss 1 defendants Mary
Akioyame, Johana Luna, Maisa Lao, and Fresno County Wellpath.

Doc. 24. 2 Plaintiff was afforded 14 days within which to file objections. Id. at 7. On April 7,
2025, Plaintiff 3 filed objections. Doc. 25. 4 Pursuant to 28 U.S.C. § 636(b)(1), this Court
conducted a de novo review of this case.

In 5 his objections, plaintiff asserts his claims should also proceed against defendants Akioyame, 6
Luna, Lao, and Fresno County Wellpath. However, plaintiff does not provide any factual 7
allegations regarding these defendants which could give rise to a constitutional violation. 8
Plaintiff asserts defendant Akioyama knew about his medical needs, but plaintiff does not assert 9
that Akioyama failed to provide the needed medical care.

Plaintiff does not assert any factual 10 allegations against defendants Luna or Lao in the second amended complaint or in his objections. 11 A review of the docket reveals that plaintiff was advised in the First Screening Order that 12 he “must allege facts by which the Court could reasonably infer that Plaintiff’s constitutional 13 rights were violated based upon a policy, decision or custom promulgated or endorsed by 14 Defendant ‘Well Path.’” Doc.

6 at 8. Plaintiff’s first amended complaint did not name Wellpath 15 as a defendant, nor did Plaintiff assert any factual allegations as to Wellpath. See Doc. 9 at 2-3 16 (“III. Defendants”); Doc. 10 at 4. Likewise, the second amended complaint does not contain any 17 factual allegations against Wellpath. See Doc. 22. 18 In his objections, plaintiff asserts that Wellpath is a proper defendant because “they 19 [knew] of the seriousness” of his medical need “as a collective whole” and that his constitutional 20 rights were violated.

Doc. 25 at 2. A plaintiff may assert Monell claims against a private entity 21 contracting with a municipality provided that: (1) the private entity acted under color of state law; 22 (2) a constitutional violation occurred; and (3) the violation was caused by an official policy or 23 custom. *Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1139 (9th Cir.2012).

As the magistrate 24 judge noted in the First Screening Order, plaintiff needed to allege facts about a policy, custom, 25 or decision. Doc. 6 at 7. As plaintiff has failed to allege any policy, custom, or decision in the 26 first amended complaint or the second amended complaint, dismissal of Wellpath is appropriate. 27 Accordingly, the Court finds the findings and recommendations to be supported by the 28 record and proper analysis.

1 Accordingly, IT IS HEREBY ORDERED that: 2 1. The findings and recommendations issued on March 21, 2025, Doc. 24, are 3 ADOPTED in full; 4 2. The action PROCEEDS on plaintiff’s Eighth Amendment deliberate indifference to 5 serious medical needs claims against defendants Alvarez, Arce, Buchanan, Cagara, 6 Duran, Gill, Guerrero, Nunez, Ramirez, Soua, Thao, and Zaragoza; 7 3.

Defendants Mary Akioyame, Maisa Lao, Johana Luna, and Wellpath are 8 DISMISSED; and 9 4. The action is referred back to the assigned magistrate judge for further proceedings. 10 11 12 | TIS SO ORDERED. _ 13 Dated: _ May 14, 2025 4h 4 UNITED STATES DISTRICT JUDGE 15 16 17 18 19 20 21 22 23 24 25 26 27 28