

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Michael Bruce Anthony McPherson v. California Department of
Corrections & Rehabilitation, et al.

McPherson · No. 1:25-cv-01026-KES-SKO · Decided October 21, 2025

SUMMARY

The United States Magistrate Judge recommends denying Plaintiff Michael Bruce Anthony McPherson’s motion for summary judgment as premature. The recommendation explains that the complaint has not yet been screened, no defendants have appeared, and discovery has not commenced, and provides a 14-day period for objections.

OPINION

Michael Bruce Anthony McPherson v. California Department of Corrections & Rehabilitation, et al.

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 MICHAEL BRUCE ANTHONY Case No.: 1:25-cv-01026-KES-SKO

McPHERSON,

12 FINDINGS AND RECOMMENDATIONS TO

Plaintiff, DENY PLAINTIFF’S MOTION FOR

13 SUMMARY JUDGMENT AS PREMATURE

v. 14 (Doc. 12)

CALIFORNIA DEPARTMENT OF

15 CORRECTIONS & REHABILITATION, 14-DAY OBJECTION PERIOD

et al., 16 Defendants. 17 18 Plaintiff Michael Bruce Anthony McPherson is appearing pro se and in forma pauperis in 19 this civil rights action. 20

I. RELEVANT BACKGROUND

21 Plaintiff initiated this action by filing a complaint on August 15, 2024. (Doc. 1.) On 22 August 19, 2025, the Court granted Plaintiff’s application to proceed in forma pauperis. (Doc. 7.) 23 On September 29, 2025, Plaintiff filed a Motion for Summary Judgment. (Doc. 12.) 24

II. DISCUSSION

25 Plaintiff’s motion is premature. First, the Court has not yet screened Plaintiff’s complaint. 26 Screening of a prisoner complaint is required by 28 U.S.C. § 1915A(a). This Court is one of the

27 1 busiest district courts in the nation. Delays, while unfortunate, are inevitable.¹ Until Plaintiff's 2 complaint has been screened, summary judgment is premature. See, e.g., *Baker v. German*, No. 3 1:16-cv-01873-AWI-SAB (PC), 2017 WL 531937, at *1 (E.D. Cal. Feb. 9, 2017) (recommending 4 summary judgment be denied where complaint not yet screened and service of complaint not yet 5 authorized), recommendation adopted 2017 WL 1427028 (E.D. Cal. Apr. 21, 2017); see also 6 *Dews v. County of Kern*, No. 14-16423, 599 Fed. App'x 681, 682 (9th Cir. Mar. 27, 2015) 7 (finding district court properly denied Dews's motions for summary judgment as premature 8 because a court must first screen a prisoner's complaint). 9 Second, discovery has not yet commenced. Although Rule 56 of the Federal Rules of 10 Civil Procedure allows a party to file a motion for summary judgment "at any time," the rule also 11 allows the court, as is just, to deny the motion or order a continuance for the opposing party to 12 pursue discovery. Fed. R. Civ. P. 56. Here, no defendant has appeared in this action,² and thus, 13 defendants have not had an opportunity to pursue discovery. See, e.g., *Williams v. Yuan Chen*, 14 No. S-10-1292 CKD P, 2011 WL 4354533, at * 3 (E.D. Cal. Sept. 16, 2011) (denying plaintiff's 15 summary judgment motion as premature where defendant had not yet filed an answer and the 16 court had not issued a discovery order); *Moore v. Hubbard*, No. CIV S-06-2187 FCD EFB P, 17 2009 WL 688897, at *1 (E.D. Cal. Mar. 13, 2009) (recommending that pre-discovery motion for 18 summary judgment be denied as premature); see also *Vining v. Runyon*, 99 F.3d 1056, 1058 (11th 19 Cir. 1996) ("A premature decision on summary judgment impermissibly deprives the 20 [defendants] of their right to utilize the discovery process to discover the facts necessary to justify 21 their opposition to the motion"). 22 // 23 // 24 // 25 1 As Plaintiff was advised in this Court's First Informational Order in Prisoner/Civil Detainee Civil Rights 26 Case, issued August 15, 2025, "the Court has an extremely large number of pro se plaintiff civil rights cases pending before it, and delay is inevitable." (See Doc. 3 at 3.) 27 2 Once the Court has determined that the complaint states a cognizable claim or claims, it "will direct the United States Marshal to initiate service of the complaint on defendants." (See Doc. 3 at 3, 4.)

1 III. ORDER AND RECOMMENDATIONS

2 Accordingly, based upon the foregoing, the Court HEREBY RECOMMENDS 3 Plaintiff's summary judgment motion (Doc. 12) be DENIED as premature. 4 These Findings and Recommendations will be submitted to the United States District 5 Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days 6 after being served with a copy of these Findings and Recommendations, a party may file written 7 objections with the Court. Local Rule 304(b). The document should be captioned, "Objections to 8 Magistrate Judge's Findings and Recommendations" and shall not exceed fifteen (15) pages 9 without leave of Court and good cause shown. The Court will not consider exhibits attached to 10 the Objections. To the extent a party wishes to refer to any exhibit(s), the party should reference 11 the exhibit in the record by its CM/ECF document and page number, when possible, or otherwise 12 reference the exhibit with specificity. Any pages filed in excess of the fifteen (15) page limitation 13 may be

disregarded by the District Judge when reviewing these Findings and Recommendations 14 under 28 U.S.C. § 636(b)(1)(C). A party's failure to file any objections within the specified time 15 may result in the waiver of certain rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 16 (9th Cir. 2014). 17 IT IS SO ORDERED. 18 19 Dated: October 21, 2025 /s/ Sheila K. Oberto .

UNITED STATES MAGISTRATE JUDGE

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