

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

**Shavers v. Taber**

Shavers · No. 2:21-cv-01734-DAD-JDP (PC) · Decided May 5, 2025

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OPINION

(PC) Shavers v. Taber

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 JESSE LEE SHAVERS, JR., No. 2:21-cv-01734-DAD-JDP (PC)

12 Plaintiff,

13 v. ORDER ADOPTING FINDINGS AND

RECOMMENDATIONS AND DENYING

14 TABER, et al., DEFENDANT TABER’S MOTION TO

DISMISS

15 Defendants. (Doc. Nos. 38, 45) 16 17 Plaintiff Jesse Lee Shavers, Jr. is a state prisoner  
proceeding pro se and in forma pauperis 18 in this civil rights action brought pursuant to 42  
U.S.C. § 1983. The matter was referred to a 19 United States Magistrate Judge pursuant to 28  
U.S.C. § 636(b)(1)(B) and Local Rule 302. 20 On March 11, 2025, the assigned magistrate judge  
issued findings and recommendations 21 recommending that defendant Taber’s motion to dismiss  
plaintiff’s fourth amended complaint 22 (“FAC”) (Doc. No. 38) be denied. (Doc. No. 45.)  
Specifically, the magistrate judge determined 23 that plaintiff had stated a cognizable Eighth  
Amendment claim for deliberate indifference by 24 alleging that: (1) he had an objectively serious  
medical condition based on his mobility issues 25 and his substantial chronic pain; and (2)  
defendant Taber purposefully took away plaintiff’s 26 mobility devices without conducting an  
evaluation and refusing to return those devices despite 27 plaintiff’s complaints and defendant  
Taber’s observations of his pain. (Id. at 5); see Colwell v. 28 Bannister, 763 F.3d 1060, 1066 (9th  
Cir. 2014) (stating that, to state a cognizable Eighth 1 | Amendment violation under a deliberate  
indifference theory against a prison official, a plaintiff 2 | must allege facts to (1) “demonstrate the  
existence of a serious medical need” and (2) that the 3 | official “knows of and disregards an  
excessive risk to inmate health and safety”). The findings 4 | and recommendations were served  
upon the parties and contained notice that any objections 5 | thereto were to be filed within  
fourteen (14) days after service. (Doc. No. 45 at 5-6.) To date, no 6 | party has filed objections and

the time in which to do so has passed. 7 In accordance with the provisions of 28 U.S.C. § 636(b) (1)(C), the court has conducted a 8 | de novo review of the case. Having carefully reviewed the entire file, the court concludes that the 9 | pending findings and recommendations are supported by the record and proper analysis. 10 Accordingly, 11 1. The findings and recommendations issued on March 11, 2025 (Doc. No. 45) are 12 adopted in full; 13 2. Defendant Taber's motion to dismiss plaintiff's fourth amended complaint (Doc.

14 No. 38) is denied;

15 3. Defendant Taber shall file an answer responding to the claims in plaintiff's fourth 16 amended complaint no later than twenty-one (21) days after the date of entry of 17 this order; and

18 4. This matter is referred back to the assigned magistrate judge for further 19 proceedings. 20

IT IS SO ORDERED. \*" | Dated: \_May 2, 2025 Dal A. 2, axel

22 DALE A. DROZD

3 UNITED STATES DISTRICT JUDGE

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