

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Hill v. Leikauf

Hill · No. 2:23-cv-1593 AC P · Decided August 13, 2025

SUMMARY

The court recommends dismissing Michael Alan Hill’s civil rights action against Jeff Leikauf and other defendants for failure to state a claim and failure to prosecute. The recommendation follows plaintiff’s failure to file an amended complaint, voluntarily dismiss the action, or respond to multiple court orders. The document advises plaintiff of the deadline and procedure for filing objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Allison Claire
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 13, 2025
DOCKET	2:23-cv-1593 AC P
DISPOSITION	other
PROCEDURAL POSTURE	After the complaint was screened and found not to state a claim, plaintiff was given multiple opportunities either to file an amended complaint or voluntarily dismiss the action. Plaintiff did neither and failed to respond to the court's orders. The magistrate judge issued findings and recommendations that the action be dismissed.
STANDARD OF REVIEW	Not expressly stated. The recommendation relies on dismissal authority under Federal Rule of Civil Procedure 41(b) and 28 U.S.C. § 1915A.
PRECEDENTIAL VALUE	Nonprecedential magistrate judge findings and recommendations; not a final adjudication in the source.
PARTIES	Michael Alan Hill v. Jeff Leikauf, et al.

TOPICS

- civil procedure
- pleadings
- section 1983
- prisoners rights

PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

QUESTIONS PRESENTED

1. Whether the action should be dismissed after plaintiff failed to amend the complaint, voluntarily dismiss the action, or respond to multiple court orders.
2. Whether dismissal was warranted for failure to state a claim under the reasons identified in the prior screening order.

HOLDINGS

1. The magistrate judge recommended that the complaint be dismissed for failure to state a claim and failure to prosecute after plaintiff repeatedly failed to comply with orders requiring an amended complaint or an express notice of voluntary dismissal.

KEY QUOTATIONS

“the best thing for me to do is allow you to dismiss the complaint for ‘too much supporting evidence.’” (at 1)

“Failure to take any action will result in a recommendation that this action be dismissed for failure to state a claim for relief and for failure to prosecute. No further warnings will be provided.” (at 2)

FACTUAL BACKGROUND

The complaint was screened and found not to state a claim for relief. Plaintiff did not file an amended complaint or expressly request voluntary dismissal despite repeated orders and warnings, including a warning that further inaction could result in dismissal for failure to state a claim and failure to prosecute.

PROCEDURAL HISTORY

The complaint was screened on April 22, 2025, and plaintiff was granted leave to amend. Plaintiff then failed to file an amended complaint, a notice of voluntary dismissal, or any response to subsequent orders granting additional time and warning that dismissal would be recommended. The magistrate judge recommended dismissal for failure to state a claim and failure to prosecute, subject to review by an assigned district judge under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

REMAND INSTRUCTIONS

None. The Clerk was ordered to randomly assign a United States District Judge, and the findings and recommendations were submitted for review under 28 U.S.C. § 636(b)(1).

CASES CITED

- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 MICHAEL ALAN HILL, No. 2:23-cv-1593 AC P 12 Plaintiff, 13 v. ORDER
AND FINDINGS & RECOMMENDATIONS 14 JEFF LEIKAUF, et al., 15 Defendants. 16 17 By
order filed April 22, 2025, the complaint was screened and found to not state a claim 18 for relief.
ECF No. 32. Plaintiff was given thirty days to file an amended complaint and 19 cautioned that
failure to do so would result in a recommendation that this action be dismissed.

Id. 20 at 7. Near the deadline, plaintiff filed a notice stating that “the best thing for me to do is
allow 21 you to dismiss the complaint for ‘too much supporting evidence.’” ECF No. 33. 22 On
May 19, 2025, the court issued an order informing plaintiff that if he wants to dismiss 23 this case,
he must file a notice explicitly stating that he wants to voluntarily dismiss the case.

24 ECF No. 34 at 1. The court cautioned that if he does not voluntarily dismiss the case and fails
to 25 file an amended complaint, a dismissal by the court could potentially count as a strike under
28 26 U.S.C. § 1915(g) because the first amended complaint was screened and found not to state a
27 claim. Id. Plaintiff was given twenty-one days from the service of the order to either (1) notify
28 the court that he wishes to voluntarily dismiss this case or (2) file an amended complaint.

1 | Plaintiff was again warned that failure to do so would result in a recommendation that this
action 2 || be dismissed for failure to state a claim and failure to prosecute. Id. at 2. 3 On June 25,
2025, after plaintiff failed to file a notice of voluntarily dismissal, an 4 | amended complaint, or
otherwise respond to the court’s May 19, 2025, order, the court gave 5 || plaintiff an additional
twenty-one days to file an amended complaint or voluntarily dismiss this 6 || case.

ECF No. 35. The court, once again, warned plaintiff that “[f]ailure to take any action will 7 || result
in a recommendation that this action be dismissed for failure to state a claim for relief and 8 | for
failure to prosecute. No further warnings will be provided.” Id. at 2. More than twenty-one 9 ||
days have now pass, and plaintiff has not filed a notice of voluntary dismissal, an amended 10 ||
complaint, or otherwise responded to the court’s May 19 and/or June 25 orders.

11 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court shall randomly 12 | assign
a United States District Judge to this action 13 IT IS FURTHER RECOMMENDED that the
complaint be dismissed for failure to state a 14 || claim for the reasons set forth in the April 22,
2025, Screening Order (ECF No. 32). See L.R. 15 | 110; Fed. R. Civ. P. 41(b); 28 U.S.C. § 1915A.

16 These findings and recommendations are submitted to the United States District Judge 17 ||
assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 18 |
after being served with these findings and recommendations, plaintiff may file written objections
19 | with the court and serve a copy on all parties. Such a document should be captioned

“Objections 20 || to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file 21 || objections within the specified time may waive the right to appeal the District Court’s order.

22 | Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991). 23 || DATED: August 13, 2025 ~ Ctt10 Lhar—
e_ 24 ALLISONCLAIRE. SS 25 UNITED STATES MAGISTRATE JUDGE 26 27 28