

**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

OPINION

(PC) Hill v. Leikauf

PER CURIAM.

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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