

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Michael Paul Weinapple v. Rob Bonta, et al.

Weinapple v. Bonta · No. 2:24-cv-1769-DAD-JDP (PS) · Decided April 23, 2025

SUMMARY

A magistrate judge recommends dismissing Michael Paul Weinapple's action for failure to state a claim and failure to comply with an order requiring him to file an amended complaint. The findings and recommendations advise the parties of the fourteen-day period for filing objections under 28 U.S.C. § 636(b)(1).

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 23, 2025
DOCKET	2:24-cv-1769-DAD-JDP (PS)
DISPOSITION	other
PROCEDURAL POSTURE	Magistrate judge findings and recommendations recommending dismissal after plaintiff failed to file an amended complaint or respond to an order to show cause.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- motions to dismiss
- pleadings
- civil procedure

PRACTICE AREAS

- civil procedure
- civil rights

QUESTIONS PRESENTED

- Whether the action should be dismissed after plaintiff failed to file an amended complaint as ordered and failed to respond to an order to show cause.

HOLDINGS

1. The magistrate judge recommended that the action be dismissed for failure to state a claim for the reasons stated in the prior findings and recommendations, and that the clerk close the case.

KEY QUOTATIONS

“Within fourteen days of service of these findings and recommendations, any party may file written objections with the court and serve a copy on all parties.” (1)

“The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order.” (1)

FACTUAL BACKGROUND

The district court had dismissed plaintiff’s complaint for failure to state a claim but allowed him thirty days to file an amended complaint. Plaintiff did not timely file an amended complaint, did not respond to the subsequent order to show cause, and did not otherwise communicate with the court before the deadline expired.

PROCEDURAL HISTORY

The magistrate judge previously recommended granting defendants’ motion to dismiss and dismissing the complaint with leave to amend. The district court adopted that recommendation, dismissed the complaint for failure to state a claim, and granted plaintiff thirty days to file an amended complaint. After plaintiff failed to amend, the magistrate judge ordered him to show cause, but plaintiff neither filed an amended complaint nor responded. The present findings and recommendations recommend dismissing the action and closing the case, subject to review by the assigned district judge.

DISPOSITION

other

CASES CITED

- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- 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 PAUL WEINAPPLE, Case No. 2:24-cv-1769-DAD-JDP (PS) 12
Plaintiff, 13 v. FINDINGS AND RECOMMENDATIONS 14 ROB BONTA, et al., 15 Defendants.
16 17 On December 16, 2024, I recommended that defendants’ motion to dismiss be granted and
18 plaintiff’s complaint be dismissed with leave to amend.

ECF No. 15. On February 19, 2025, the 19 court adopted the findings and recommendations,
dismissed the complaint for failure to state a 20 claim, and granted plaintiff thirty days to file a
first amended complaint. ECF No. 21. Plaintiff 21 failed to timely file an amended complaint.

Accordingly, on March 26, 2025, I ordered him to show cause within fourteen days why this action should not be dismissed. ECF No. 23. I notified him that if he wished to continue with this lawsuit, he must file an amended complaint. I also warned plaintiff that failure to comply with the March 26, 2025 order would result in a recommendation that this action be dismissed.

The deadline has passed, and plaintiff has not filed an amended complaint or otherwise responded to the March 26, 2025 order. Accordingly, it is hereby RECOMMENDED that: 1. This action be dismissed for failure to state a claim for the reasons set forth in the December 16, 2024 findings and recommendations. 2.

The Clerk of Court be directed to close the case. These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days of service of these findings and recommendations, any party may file written objections with the court and serve a copy on all parties.

Any such document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations,” and any response shall be served and filed within fourteen days of service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order. See *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir.

1998); *Martinez v. Yist*, 951 F.2d 1153 (9th Cir. 13 1991). 14 1s IT IS SO ORDERED. 16 | q Sty
— Dated: April 22, 2025 q—— 17 JEREMY D. PETERSON 18 UNITED STATES
MAGISTRATE JUDGE 19 20 21 22 23 24 25 26 27 28