

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Littleton v. Montiez

Littleton · No. 2:22-cv-0700 KJM KJN P · Decided March 6, 2023

SUMMARY

The United States District Court for the Eastern District of California adopts the magistrate judge’s findings and recommendations in a prisoner civil rights action under 42 U.S.C. § 1983. Because the plaintiff did not object, the court dismisses the action without prejudice under Federal Rule of Civil Procedure 41(b).

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 6, 2023
DOCKET	2:22-cv-0700 KJM KJN P
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's findings and recommendations in a prisoner's § 1983 action after the plaintiff failed to file objections.
STANDARD OF REVIEW	The court presumed the magistrate judge's factual findings correct and reviewed the magistrate judge's legal conclusions de novo.
PRECEDENTIAL VALUE	unpublished and nonprecedential

TOPICS

- civil procedure
- prisoners rights
- section 1983

PRACTICE AREAS

- civil procedure
- prisoner civil rights
- federal courts

QUESTIONS PRESENTED

- Whether the district court should adopt the magistrate judge's findings and recommendations when plaintiff did not file objections after being properly served.

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2. Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) and Local Rule 110.

HOLDINGS

1. The district court adopted the magistrate judge's findings and recommendations in full because they were supported by the record and proper analysis, and plaintiff filed no objections.
2. The action was dismissed without prejudice.

FACTUAL BACKGROUND

Plaintiff was a state prisoner proceeding without counsel who brought a civil rights action seeking relief under 42 U.S.C. § 1983. The findings and recommendations were served on plaintiff at his updated address, but he did not file objections within the applicable period.

PROCEDURAL HISTORY

Michael Littleton, a state prisoner proceeding pro se, filed this civil rights action under 42 U.S.C. § 1983. The matter was referred to a magistrate judge, who issued findings and recommendations on December 1, 2022. After the findings and recommendations were served at plaintiff's updated address, plaintiff filed no objections. The district court adopted the findings and recommendations in full and dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979)
- Robbins v. Carey, 481 F.3d 1143, 1147 (9th Cir. 2007)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 MICHAEL LITTLETON, No. 2:22-cv-0700 KJM KJN P 12 Plaintiff, 13 v.
ORDER 14 MARK MONTIEZ, et al., 15 Defendants. 16 17 Plaintiff, a state prisoner proceeding
pro se, filed this civil rights action seeking relief 18 under 42 U.S.C. § 1983.

The matter was referred to a United States Magistrate Judge as provided 19 by 28 U.S.C. § 636(b)
(1)(B) and Local Rule 302. 20 On December 1, 2022, the magistrate judge filed findings and
recommendations, which 21 were served on plaintiff and which contained notice to plaintiff that
any objections to the findings 22 and recommendations were to be filed within fourteen days.

On January 17, 2023, plaintiff was 23 reserved with the findings and recommendations at his
updated address. Plaintiff has not filed 24 objections to the findings and recommendations. 25 The

court presumes that any findings of fact are correct. See *Orand v. United States*, 26 602 F.2d 207, 208 (9th Cir. 1979).

The magistrate judge's conclusions of law are reviewed *de novo*. See *Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) (“[D]eterminations of law *de novo* by the magistrate judge are reviewed *de novo* by both the district court and [the appellate] court 1 |...°).

Having reviewed the file, the court finds the findings and recommendations to be 2 || supported by the record and by the proper analysis. 3 Accordingly, IT IS HEREBY ORDERED that: 4 1. The findings and recommendations filed December 01, 2022, are adopted in full; and 5 2. This action is dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

6 | DATED: March 6, 2023. 9 CHIEF ED STATES DISTRICT JUDGE 10 1] 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28