

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Tomasini v. Chau

Tomasini v. Chau · No. 2:18-cv-0286 DAD AC P · Decided March 10, 2023

SUMMARY

The United States District Court for the Eastern District of California denied Paul C. Tomasini’s motion for reconsideration of an earlier order denying a stay. The court granted his motion to voluntarily dismiss deceased defendant D. Gentry and successors in interest, and modified the discovery and pretrial motion deadlines.

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	March 10, 2023
DOCKET	2:18-cv-0286 DAD AC P
DISPOSITION	other
PROCEDURAL POSTURE	Order resolving plaintiff's motion for reconsideration of an order denying a stay and motion to voluntarily dismiss deceased defendant D. Gentry and her successors in interest.
STANDARD OF REVIEW	Reconsideration of prior orders is generally available only for newly discovered evidence, clear error, or an intervening change in controlling law.
PRECEDENTIAL VALUE	Unpublished district court order; precedential status unknown

TOPICS

- motion for reconsideration
- discovery dispute
- civil procedure

PRACTICE AREAS

- civil procedure
- prisoner civil rights

QUESTIONS PRESENTED

1. Whether plaintiff was entitled to reconsideration of the order denying his request for a stay.
2. Whether defendant D. Gentry and her successors in interest should be voluntarily dismissed after Gentry's death.
3. Whether the discovery and pretrial-motion deadlines should be reset.

HOLDINGS

1. Reconsideration was not warranted because none of the recognized grounds—newly discovered evidence, clear error, or an intervening change in controlling law—was present.
2. The court granted plaintiff's motion to voluntarily dismiss deceased defendant D. Gentry and any successors in interest.
3. The operative discovery and scheduling order was modified to permit discovery through April 21, 2023, with motions to compel due by that date, and to require other pretrial motions by July 14, 2023.

KEY QUOTATIONS

“Reconsideration of prior orders is generally available only on grounds of newly discovered evidence, clear error, or an intervening change in the controlling law.” (at 1)

FACTUAL BACKGROUND

Plaintiff's request for a stay had been based on his separation from his legal property. He later reported that he had been reunited with his files but asserted other circumstances warranting a stay. Defendant D. Gentry died, and plaintiff elected not to substitute successors in interest and instead sought dismissal.

PROCEDURAL HISTORY

Plaintiff moved for reconsideration of the denial of his request for a stay after informing the court that he had regained access to his legal files but faced other circumstances. During the case, defendant D. Gentry died, and plaintiff stated that he would not seek substitution under Federal Rule of Civil Procedure 25(a) and instead sought dismissal. The court denied reconsideration, granted the voluntary-dismissal motion, and modified the discovery and pretrial-motion deadlines.

DISPOSITION

other

CASES CITED

- Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009)