

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Tyrell Ainsworth v. Shepherd, et al.

Ainsworth · No. No. 2:24-cv-1478 KJM AC P · Decided December 30, 2025

SUMMARY

The document contains findings and recommendations by a United States magistrate judge in Ainsworth v. Shepherd, et al. The magistrate judge recommends dismissal without prejudice because the plaintiff failed to pay the filing fee after being ordered to do so and after his appeal was dismissed for failure to pay the appellate filing fee.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Allison Claire, United States Magistrate Judge
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 30, 2025
DOCKET	No. 2:24-cv-1478 KJM AC P
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal without prejudice after plaintiff failed to pay the filing fee and failed to respond to the court's order.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Tyrell Ainsworth v. Shepherd, et al.

TOPICS

- appellate procedure
- civil procedure
- final judgment rule

PRACTICE AREAS

- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice after plaintiff failed to pay the filing fee despite an order and warning requiring payment.

KEY QUOTATIONS

“Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice.” (at 1)

FACTUAL BACKGROUND

Plaintiff was ordered to pay the filing fee within thirty days and was warned that failure to do so would result in dismissal. He appealed the order, but his appeal was dismissed because he failed to pay the appellate filing fee. After the appellate mandate issued, plaintiff still did not pay the district-court filing fee or otherwise respond to the order.

PROCEDURAL HISTORY

The court ordered plaintiff to pay the filing fee within thirty days and warned that failure to do so would result in dismissal. Plaintiff appealed, but the appeal was dismissed after he failed to pay the appellate filing fee, and the appellate order became the mandate. Plaintiff then failed to pay the filing fee in the district court or otherwise respond, prompting the magistrate judge to recommend dismissal without prejudice.

DISPOSITION

other

CASES CITED

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

OPINION

Shepherd

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 TYRELL AINSWORTH, No. 2:24-cv-1478 KJM AC P

12 Plaintiff,

FINDINGS AND RECOMMENDATIONS

13 v. 14 SHEPHERD, et al., 15 Defendants. 16 17 By order filed May 29, 2025, plaintiff was
ordered to pay the filing fee within thirty days 18 and was cautioned that failure to do so would
result in dismissal of this action. ECF No. 30. 19 Plaintiff appealed. ECF No. 31. After plaintiff
failed to pay the appellate court filing fee, his 20 appeal was dismissed, and the order become the
mandate of the court. ECF No. 36. The thirty- 21 day period for plaintiff to pay the filing fee in
this action has long expired and plaintiff has not 22 paid the filing fee or otherwise responded to
the order. 23 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed

without 24 prejudice. 25 These findings and recommendations are submitted to the United States District Judge 26 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 27 after being served with these findings and recommendations, plaintiff may file written objections 28 with the court. Such a document should be captioned “Objections to Magistrate Judge’s Findings 1 | and Recommendations.” Plaintiff is advised that failure to file objections within the specified 2 | time may waive the right to appeal the District Court’s order. Martinez v. YIst, 951 F.2d 1153 3 | (th Cir. 1991). 4 || DATED: December 29, 2025 ~

ALLISON CLAIRE

6 UNITED STATES MAGISTRATE JUDGE

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