

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Duque v. Davis

Duque · No. 2:25-cv-0905 WBS CSK P · Decided July 10, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations in a prisoner civil rights action under 42 U.S.C. § 1983. The court dismissed the action without prejudice after plaintiff failed to file objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	William B. Shubb
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 10, 2025
DOCKET	2:25-cv-0905 WBS CSK P
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff filed a prisoner civil-rights action under 42 U.S.C. § 1983. After a magistrate judge issued findings and recommendations, plaintiff filed no objections. The district court adopted the findings and recommendations in full and dismissed the action without prejudice.
STANDARD OF REVIEW	The court presumes that factual findings are correct and reviews legal conclusions de novo.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Jason Allen Duque v. Davis, et al.

TOPICS

- prisoners rights
- section 1983
- civil procedure
- service of process

PRACTICE AREAS

- Civil rights
- Federal civil procedure
- Prisoner litigation

QUESTIONS PRESENTED

1. Whether the magistrate judge's findings and recommendations should be adopted when plaintiff filed no objections.
2. What standard of review applies to the magistrate judge's factual findings and legal conclusions.
3. Whether the action should be dismissed without prejudice.

HOLDINGS

1. When reviewing a magistrate judge's findings and recommendations, factual findings are presumed correct and legal conclusions are reviewed de novo.
2. The district court may adopt the magistrate judge's findings and recommendations in full when they are supported by the record and the magistrate judge's analysis and no objections warrant a different result.
3. Service of documents at the record address of a party is fully effective when the party has a responsibility to keep the court apprised of a current address.

KEY QUOTATIONS

“It is the plaintiff’s responsibility to keep the court apprised of his current address at all times.” (1)

“Pursuant to Local Rule 182(f), service of documents at the record address of the party is fully effective.” (1)

“Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the magistrate judge’s analysis.” (2)

FACTUAL BACKGROUND

Jason Allen Duque, a state prisoner proceeding pro se, filed a civil-rights action seeking relief under 42 U.S.C. § 1983. The findings and recommendations were served at plaintiff's record address, but plaintiff did not file objections. Although plaintiff's copy appeared to have been returned, the court found that service was proper because parties are responsible for keeping the court apprised of their current addresses.

PROCEDURAL HISTORY

The matter was referred to a magistrate judge under 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. The magistrate judge issued findings and recommendations on May 21, 2025, which were served on plaintiff and advised him of the fourteen-day objection period. Plaintiff filed no objections, and the district court adopted the findings and recommendations and dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- Orand v. United States, 602 F.2d 207, 208 (9th Cir.)
- Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir.)

OPINION

(PC) Duque v. Davis

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 JASON ALLEN DUQUE, No. 2:25-cv-0905 WBS CSK P

12 Plaintiff, 13 v. ORDER 14 DAVIS, 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 pursuant to 19 28 U.S.C. § 636(b)(1)(B)
and Local Rule 302. 20 On May 21, 2025, the magistrate judge filed findings and
recommendations herein 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.
Plaintiff did not file objections to the 23 findings and recommendations. 24 Although it appears
from the file that plaintiff's copy of the findings and 25 recommendations was returned, plaintiff
was properly served. It is the plaintiff's responsibility to 26 keep the court apprised of his current
address at all times. Pursuant to Local Rule 182(f), service 27 of documents at the record address
of the party is fully effective. 28 // 1 The court presumes that any findings of fact are correct.
See *Orand v. United States*, 602 2 | F.2d 207, 208 (9th Cir. 1979). The magistrate judge's
conclusions of law are reviewed de novo. 3 | See *Britt v. Simi Valley Unified School Dist.*, 708
F.2d 452, 454 (9th Cir. 1983). Having 4 | reviewed the file, the court finds the findings and
recommendations to be supported by the record 5 | and by the magistrate judge's analysis. 6
Accordingly, IT IS HEREBY ORDERED that: 7 1. The findings and recommendations (ECF No.
8) are adopted in full; and 8 2. This action is dismissed without prejudice. 9 | Dated: July 9, 2025
Ju Llu 4.

10 WILLIAM B. SHUBB ☐

UNITED STATES DISTRICT JUDGE

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