

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

**David Wesley Birrell aka Bella-Christina Birrell v. Michele DiTomas,
et al.**

Birrell v. DiTomas · No. 2:22-cv-01528-KJM-EFB (PC) · Decided December 17, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 DAVID WESLEY BIRRELL, No. 2:22-cv-01528-KJM-EFB (PC) aka 12
Bella-Christina Birrell, 13 Plaintiff, ORDER 14 v. 15 MICHELE DITOMAS, et al., 16
Defendants. 17 18 Plaintiff proceeds without counsel in this civil rights action seeking relief under
42 U.S.C. 19 § 1983.

The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. 20 § 636(b)
(1)(B) and Local Rule 302. 21 On November 4, 2025, the magistrate judge filed findings and
recommendations, which 22 were served on all parties and which contained notice to all parties
that any objections to the 23 findings and recommendations were to be filed within fourteen days.

ECF No. 41. No party has 24 filed 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 27 novo. See *Robbins*
v. Carey, 481 F.3d 1143, 1147 (9th Cir. 2007) (“[D]eterminations of law by 28 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 || extremely
well-written and helpful, and supported by the record and by the proper analysis, 3 || without the
need to reach the question of qualified immunity. 4 Accordingly, IT IS HEREBY ORDERED that:
5 1.

The findings and recommendations filed November 4, 2025 are adopted, except for 6 the qualified
immunity discussion on pages 15-17: 7 2. Defendants’ motion for summary judgment (ECF No.
25) is GRANTED; and 8 3. The Clerk of Court is directed enter judgment for defendants and
close the case. 9 | DATED: December 16, 2025. oUt STATES DISTRICT JUDGE 12 13 14 15 16
17 18 19 20 21 22 23 24 25 26 27 28