

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Gilmore v. Castillo

Gilmore · No. 1:21-cv-00617 JLT GSA (PC) · Decided August 29, 2025

SUMMARY

The document contains findings and recommendations by a United States Magistrate Judge in a prisoner civil rights action under 42 U.S.C. § 1983. It recommends granting the defendant’s motion for terminating sanctions under Federal Rule of Civil Procedure 37(b)(2)(A)(v) and dismissing the action with prejudice because the plaintiff failed to comply with discovery orders and prosecute the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Gary S. Austin
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 29, 2025
DOCKET	1:21-cv-00617 JLT GSA (PC)
DISPOSITION	other
PROCEDURAL POSTURE	A magistrate judge issued findings and recommendations on Defendant's motion for terminating sanctions, recommending that the motion be granted and the prisoner's § 1983 action be dismissed with prejudice. The recommendation was subject to objections and review by the assigned district judge under 28 U.S.C. § 636(b)(1).
STANDARD OF REVIEW	A dismissal under Federal Rule of Civil Procedure 37 is reviewed for abuse of discretion. The magistrate judge applied the Ninth Circuit's five-factor framework for dismissal based on failure to comply with a court order and considered whether lesser sanctions had been adequately examined.
PRECEDENTIAL VALUE	Unknown; magistrate judge's findings and recommendations in an unpublished district-court matter

TOPICS

- sanctions
- discovery dispute
- civil procedure
- prisoners rights
- section 1983

PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

QUESTIONS PRESENTED

1. Whether terminating sanctions under Federal Rule of Civil Procedure 37(b)(2)(A)(v) were warranted because Plaintiff failed to obey discovery-related court orders.
2. Whether dismissal with prejudice was warranted under Federal Rule of Civil Procedure 41(b) and Local Rule 110 for failure to prosecute and failure to comply with court orders.
3. Whether the Ninth Circuit's Malone factors and consideration of less drastic sanctions supported dismissal.

HOLDINGS

1. When a party fails to obey a discovery order, Federal Rule of Civil Procedure 37(b)(2)(A)(v) permits dismissal of the action in whole or in part; on the record presented, terminating sanctions were supported.
2. Dismissal with prejudice was warranted under Federal Rule of Civil Procedure 41(b) and Local Rule 110 because Plaintiff failed to prosecute the action and failed to comply with court orders.
3. The five Malone factors supported dismissal, and the record showed that no less drastic sanction was adequate because Plaintiff had received repeated extensions, additional opportunities to comply, and an explicit warning that continued noncompliance could result in dismissal.

KEY QUOTATIONS

“A district court must weigh five factors in determining whether to dismiss a case for failure to comply with a court order: “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on the merits; and (5) the availability of less drastic sanctions.”” (at 6)

“In sum, there is no less drastic option than dismissal.” (at 7-8)

FACTUAL BACKGROUND

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, brought a civil-rights action under 42 U.S.C. § 1983. The court ordered Plaintiff to respond to Defendant's discovery requests and later gave him additional time and alternative means to comply, including serving responses or responding to the motion to compel. Plaintiff did neither and also failed to respond to Defendant's motion for terminating sanctions after being warned that continued noncompliance could lead to dismissal.

PROCEDURAL HISTORY

After screening the complaint, the court granted Plaintiff multiple extensions to amend or elect to proceed on the screened complaint. Plaintiff eventually elected to proceed on the screened complaint, which was served, and Defendant answered. During discovery, Plaintiff received extensions and additional opportunities to respond to

discovery and to Defendant's motion to compel, but failed to provide responses. Defendant then moved for terminating sanctions, and Plaintiff failed to oppose that motion despite a warning that noncompliance could result in dismissal.

DISPOSITION

other

CASES CITED

- Roberts v. Marshall, 627 F.3d 768, 769 n.1 (9th Cir. 2010)
- Jenkins v. Johnson, 330 F.3d 1146, 1149 n.2 (9th Cir. 2003)
- Pace v. DiGuglielmo, 544 U.S. 408 (2005)
- Leon v. IDX Systems Corp., 464 F.3d 951, 958 (9th Cir. 2006)
- Anheuser-Busch, Inc. v. Natural Beverage Distributors, 69 F.3d 337, 348 (9th Cir. 1995)
- Malone v. United States Postal Service, 833 F.2d 128, 130 (9th Cir. 1987)
- Thompson v. Housing Authority of City of Los Angeles, 782 F.2d 829 (9th Cir. 1986) (per curiam)
- Adriana International Corp. v. Thoeren, 913 F.2d 1406, 1412-13 (9th Cir. 1990)
- Whitaker v. Superior Court of San Francisco, 514 U.S. 208, 210 (1995)
- Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014)
- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(PC) Gilmore v. Castillo

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 EDWARD D. GILMORE, No. 1:21-cv-00617 JLT GSA (PC)

12 Plaintiff, FINDINGS AND RECOMMENDATIONS 13 v. ORDER RECOMMENDING
THAT:

14 D. CASTILLO, (1) DEFENDANT’S MOTION FOR
TERMINATING SANCTIONS PURSUANT

15 Defendant. TO FEDERAL RULE OF CIVIL
PROCEDURE 37(b)(2)(A)(v) BE GRANTED,

16 AND

17 (2) THIS ACTION BE DISMISSED WITH
PREJUDICE

18

PLAINTIFF'S OBJECTIONS DUE IN
19 FOURTEEN DAYS

20 21 Plaintiff, a state prisoner proceeding pro se and in forma pauperis, has filed this civil 22
rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States 23
Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 24 Before this Court
is Defendant's motion for terminating sanctions pursuant to Federal 25 Rule of Civil Procedure
37(b)(2)(A)(v). ECF No. 40. For the reasons stated below, the 26 undersigned will recommend
that Defendant's motion be granted and that this case be dismissed 27 with prejudice. Plaintiff
shall have fourteen days to file objections to this order.

28 I. RELEVANT PROCEDURAL HISTORY

1 A. Complaint Screening and Extensions of Time to File Amended Complaint 2 On May 17,
2023, Plaintiff's complaint was screened, and he was directed either to file an 3 amended
complaint or to inform the Court that he wished to proceed on the complaint as 4 screened. ECF
No. 12. Plaintiff was given thirty days to take either course of action. See *id.* at 5 16. 6 Thereafter,
Plaintiff requested and was granted three extension of time requests: two for 7 sixty days and one
for thirty days. See ECF Nos. 13, 15, 17 (Plaintiff's extension of time 8 requests); see also ECF
Nos. 15, 16, 18 (Court's grants of same). At that point, Plaintiff's 9 amended complaint was to
have been filed by December 20, 2023. ECF No. 18 at 2. 10 B. Findings and Recommendations to
Dismiss for Failure to Prosecute and for 11 Failure to Obey Court Order 12 Plaintiff failed to file a
timely amended complaint. As a result, on January 2, 2024, the 13 undersigned issued an order
which recommended that the matter be dismissed for failure to obey 14 a court order and for
failure to prosecute. ECF No. 20. The same day, a "supplemental 15 complaint" filed by Plaintiff
was docketed. ECF No. 21. As the title of the document indicated, 16 it was not the amended
complaint that the Court had ordered Plaintiff to file. See generally *id.* It 17 was simply a
document which informed the Court what had occurred in Plaintiff's case after he 18 had filed the
complaint. See ECF No. 21 at 1 (Plaintiff's supplement stating same). As a result, 19 instead of
withdrawing the findings and recommendations order, the undersigned opted to wait 20 and see if
Plaintiff would either go ahead and file an amended complaint or opt to proceed on the 21 initial
complaint, the two options that the May 2023 screening order had given Plaintiff and that 22 he
had been given more than ample time from which to choose. 23 C. Order Declining to Adopt
Findings and Recommendations 24 More than a month passed and Plaintiff failed to file an
amended complaint, nor did he 25 file a notice with the Court indicating that he wished to proceed
on the complaint as it had been 26 screened. On February 8, 2024, the District Judge assigned to
this action declined to adopt the 27 undersigned's findings and recommendation. ECF No. 22.
Instead, the District Judge found that 28 Plaintiff's "supplemental complaint" could be construed
as a request to proceed on his cognizable 1 claims, and also found that with the filing of the
"supplemental complaint," Plaintiff had 2 attempted to comply with the order of the Court. *Id.* at
2. The Court gave Plaintiff an additional 3 time to either file an amended complaint or file a notice

that he wished to proceed on the 4 complaint as screened. *Id.* at 3-4. As a result, Plaintiff was to take one of the two courses of 5 action no later than March 31, 2024. See *id.* at 3. In addition, Plaintiff's request within the 6 "supplemental complaint" requesting he be allowed to supplement his original complaint pursuant 7 to Federal Rule of Civil Procedure 15(d) (see ECF No. 21 at 1), was also denied by the Court (see 8 ECF No. 22 at 3). 9 D. Notice to Proceed on Complaint as Screened 10 On April 8, 2024, Plaintiff's notice which stated that he wished to proceed on the 11 complaint as it had been screened back on May 17, 2023, was docketed.¹ See ECF No. 23. The 12 next day, the complaint was ordered served. See ECF No. 24. 13 E. Defendant's Opt Out of Early ADR; Commencement of Discovery 14 On August 9, 2024, Defendant moved to opt out of the Court's Early Alternative Dispute 15 Resolution Program, and the motion was granted shortly thereafter. ECF Nos. 29, 30 16 (Defendant's opt out motion; Court's grant of same, respectively). Thereafter, Defendant's 17 answer to the complaint was filed on September 13, 2024 (ECF No. 31). The Court then issued a 18 discovery and scheduling order for the case (ECF No. 32). In it, discovery was to end on

19 December 6, 2024, and motions to compel were due the same day. *Id.* at 6.

20 F. Extension of Time Requests Filed; Extension of Motion to Compel Date 21 On November 25, 2024, Plaintiff filed a motion for a sixty-to-ninety-day extension of time 22 to respond to Defendant's requests for admission. ECF No. 34. Approximately one week later, 23 the motion was granted, and Plaintiff was given a sixty-day extension. *Id.* at 2. As a result, 24 Plaintiff's responses to Defendant's requests for admissions were due January 31, 2025, and 25 1 Plaintiff signed the notice on March 29, 2024. See ECF No. 23. As a result, it was constructively filed with the Court on that date. See *Roberts v. Marshall*, 627 F.3d 768, 769 n.1 26 (9th Cir. 2010) (stating constructive filing date for prisoner giving pleading to prison authorities is 27 date pleading is signed); *Jenkins v. Johnson*, 330 F.3d 1146, 1149 n.2 (9th Cir. 2003), overruled on other grounds by *Pace v. DiGuglielmo*, 544 U.S. 408 (2005). 28 1 motions to compel were due March 14, 2025. *Id.* Pretrial motions were to be filed by May 16, 2 2025. *Id.* 3 On May 14, 2025, Defendant filed a motion for a thirty-one-day extension of time to file a 4 motion for summary judgment. ECF No. 36. The motion was granted the same day, making 5 Defendant's dispositive motion due June 16, 2025. See ECF No. 37. Thereafter, on June 2, 6 2025, Defendant filed a motion for an extension of time for him to file, *nunc pro tunc*, a motion to 7 compel. ECF No. 38. The motion to compel was attached to the request for an extension of time. 8 See *id.* at 38-2 at 5-28. The motion was granted three days later, and the Court ordered Plaintiff 9 to respond to Defendant's motion to compel,² and to do so within thirty days. ECF No. 39 at 2. 10 As a result, Plaintiff's response to Defendant's motion to compel was due July 7, 2025.³ 11 G. Defendant's Motion for Terminating Sanctions; Plaintiff's Failure to Respond 12 On July 24, 2025, Defendant filed the instant motion for terminating sanctions pursuant to 13 Federal Rule of Civil Procedure 37(b)(2)(A)(v). ECF No. 40. The motion informs the Court that 14 Plaintiff had failed to file and/or serve a response to his discovery requests as he was ordered to 15 do. *Id.* at 4-8. As a result, Defendant requests that the

Court dismiss this case due to Plaintiff's failure to comply with the Court's orders and with the Federal Rules of Civil Procedure. *Id.* at 5- 17 8. In the alternative, Defendant requests that the Court order Plaintiff to respond fully to Defendant's discovery requests within fourteen days, and to do so without objections.⁴ *Id.* at 8. 19 Consistent with Local Rule 230(l), Plaintiff's response to Defendant's motion for terminating sanctions was due on August 14, 2025. See Local Rule 230(l) giving parties twenty-one days to file responses to motions when litigant is prisoner. Importantly, this deadline was pointed out to Plaintiff in the Court's July 29, 2025 order wherein Plaintiff was also cautioned that failure to comply with the order that he file a response to Defendant's motion for terminating sanctions.²⁴ 2 At the time, Plaintiff was directed either to serve Defendant directly with his discovery responses or to file with the Court a response to Defendant's motion to compel. See ECF No. 39 at 2. 26 3 Because the thirtieth day fell on Saturday, July 5, 2025, Plaintiff had until Monday, July 7, 2025, to respond to Defendant's motion to compel. See Fed. R. Civ. P. 6(a)(1)(A)-(C). 4 Defendant also asks for additional time to file a motion for summary judgment should the Court opt not to dismiss this matter. ECF No. 40 at 8. 1 would likely result in a recommendation that Defendant's motion for terminating sanctions be granted. See. ECF No. 42 at 4. 3 H. Defendant's Notice of Plaintiff's Failure to Respond to Defendant's Motion 4 On August 21, 2025, Defendant filed the instant notice of Plaintiff's failure to respond to his motion for terminating sanctions. ECF No. 43. In it, Defendant points out: (1) that to date, 6 Plaintiff has neither served Defendant with a response to Defendant's motion for terminating sanctions nor filed any with the Court, and (2) that in the Court's July 29, 2025, order which 8 directed Plaintiff to file a response to his motion for terminating sanctions, the Court warned 9 Plaintiff that his failure to comply with the order within the time allotted would likely result in a 10 recommendation that this matter be dismissed. *Id.* at 1. For these reasons, Defendant asks that 11 the Court dismiss this matter in its entirety. *Id.* at 1-2. 12 To date, Plaintiff has not filed a response to Defendant's motion for terminating sanctions, 13 nor has he requested an extension of time to do so.

14 II. APPLICABLE LAW

15 A. Federal Rule of Civil Procedure 37(b)(2)(A)(v) 16 Federal Rule of Civil Procedure 37(b)(2)(A)(v) states: 17 (b) Failure to Comply With a Court Order. 18 19

(2) Sanctions Sought in the District Where the Action Is Pending.

20 (A) For Not Obeying a Discovery Order. If a party or a party's 21 officer, director, or managing agent--or a witness designated under Rule 30(b)(6) or 31(a)(4)--fails to obey an order to provide or permit discovery, 22 including an order under Rule 26(f), 35, or 37(a), the court where the action 23 is pending may issue further just orders. They may include the following: 24 (v) dismissing the action in whole or in part . . . 25 26 Fed. R. Civ. P. 37(b)(2)(A)(v) (emphasis in original).

27 Rule 37 is one of the sources of authority under which a district court may sanction a party

28 who has not produced evidence. See generally *Leon v. IDX Sys. Corp.*, 464 F.3d 951, 958 (9th Cir. 2006). A dismissal pursuant to Rule 37 is reviewed for an abuse of discretion. *Anheuser-*

2 Busch, Inc. v. Nat. Beverage Distributors, 69 F.3d 337, 348 (9th Cir. 1995). 3 4 B. Malone
Factors 5 The Ninth Circuit has identified the factors to consider when dismissing a case for
failure 6 to comply with a court order, discovery or otherwise. It writes: 7 A district court must
weigh five factors in determining whether to dismiss a case 8 for failure to comply with a court
order: “(1) the public’s interest in expeditious 9 resolution of litigation; (2) the court’s need to
manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
disposition of cases on 10 their merits; and (5) the availability of less drastic sanctions.” 11 12
Malone v. United States Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (quoting Thompson v.
13 Hous. Auth. of City of Los Angeles, 782 F.2d 829 (9th Cir. 1986) (per curiam)). In Anheuser-
14 Busch, Inc. v. Nat. Beverage Distributors, 69 F.3d 337 (9th Cir. 1995), the Ninth Circuit also 15
identified some factors to consider when determining whether lesser sanctions had been 16
considered prior to dismissal. It wrote: 17 In determining whether the district court properly
considered lesser sanctions prior 18 to dismissing a party’s case, we examine: (1) whether the
district court explicitly discussed the feasibility of less drastic sanctions and explained why such
alternate 19 sanctions would be inappropriate; (2) whether the district court implemented 20
alternative sanctions before ordering dismissal; and (3) whether the district court warned the party
of the possibility of dismissal before ordering dismissal. 21 22 Id., 69 F.3d at 352 (citing Adriana
Int’l Corp. v. Thoeren, 913 F.2d 1406, 1412–13 (9th Cir. 23 1990). 24 C. Federal Rule of Civil
Procedure 41(b) and Local Rules 110 25 Federal Rule of Civil Procedure 41 permits this Court to
dismiss a matter if a plaintiff fails 26 to prosecute or if he fails to comply with a court order. See
Fed. R. Civ. P. 41(b). Local Rule 27 110 also permits the imposition of sanctions when a party fails
to comply with a court order. L.R. 28 1 110.

2 III. DISCUSSION

3 The undersigned will recommend that Defendant’s motion for terminating sanctions be 4 granted
as Federal Rules of Civil Procedure Rule 37 (b)(2)(A)(v) and 41(b), Malone, and Local
5 Rule 110 all support the dismissal of this case.

6 A. Rule 37(b)(2)(A)(v) Supports the Dismissal of This Case 7 As Defendant points out,
throughout the discovery process, Plaintiff has been given ample 8 opportunities to comply with
the Court’s orders and respond to Defendant’s discovery requests. 9 See ECF No. 40 at 3-4
(Defendant’s chronology of discovery-related events). The 10 aforementioned record of events,
which are documented on the Court’s docket also verify this 11 finding. To date, however,
Defendant states that Plaintiff has not responded to his discovery 12 requests, nor has Plaintiff
responded to Defendant’s motion for terminating sanctions. 13 When a party fails to obey a
discovery orders, Rule 37(b)(2)(A)(v) permits the dismissal 14 of the action in its entirety. Thus, a
grant of Defendant’s request for terminating sanctions is 15 supported by Rule 37. 16 B.
Application of Malone Factors Supports the Dismissal of This Case 17 1. Expeditious Resolution
of Litigation; Court’s Need to Manage Its Docket 18 Plaintiff has been given more than ample
time to provide responses to Defendant’s 19 discovery requests. First, he was given a sixty-day

extension of time to respond to the 20 Defendant's Request for Admissions, which was granted. See ECF Nos. 34, 35 (Plaintiff's 21 extension request; Court's grant of same). Then, after Defendant filed a motion to extend Nunc 22 Pro Tunc the deadline in which to file a motion to compel simultaneous filing with it the motion 23 the motion to compel (see ECF No. 38, at1), the Court, sua sponte, granted Plaintiff an additional 24 thirty days to either directly serve Defendant with responses to "all the discovery requests in 25 question", or to file with the Court a response to Defendants motion to compel. (see ECF No. 39 26 at 2). Despite having been given additional time to comply with the Court's orders by responding 27 to Defendant's discovery requests, Plaintiff has failed to do so, has not contacted the Court to 28 provide exceptional reasons for not having done so, nor requested additional time to do so. 1 The Eastern District Court has an unusually large caseload.⁵ "[T]he goal of fairly 2 dispensing justice . . . is compromised when the Court is forced to devote its limited resources to 3 the processing of frivolous and repetitious requests." *Whitaker v. Superior Court of San 4 Francisco*, 514 U.S. 208, 210 (1994) (brackets added) (citation omitted). Thus, it follows that 5 keeping this case on the Court's docket is not a good use of the Court's already taxed resources. 6 Indeed, keeping this matter on the Court's docket would be futile and would unnecessarily 7 prolong the disposition of this case given that Plaintiff appears to have abandoned it. 8 Additionally, in fairness to the many other litigants who currently have cases before the Court, no 9 additional time should be spent on this matter. 10 2. Risk of Prejudice to Defendant 11 Furthermore, Defendant has consistently defended himself throughout these proceedings, 12 responding to the Court's orders to file an answer to Plaintiff's complaint (see ECF Nos. 27, 31) 13 (Court's order to file answer; Defendant's answer, respectively), and filing for an extension of 14 time to file a motion for summary judgment (see ECF 36). To require Defendant to continue to 15 put more time and energy into defending himself against claims that Plaintiff has brought against 16 him would be highly unfair to him, especially given that it is clear that Plaintiff no longer has an 17 interest in prosecuting this case. Thus, dismissing this matter will eliminate any injustice and/or 18 prejudice that Defendant has incurred to date. 19 3. Availability of Less Drastic Sanctions; Favored Disposition of Cases on 20 Merits 21 Finally, as Defendant also points out (see ECF No. 43 at 1), on July 29, 2025, when the 22 Court ordered Plaintiff to file a response to Defendant's motion for terminating sanctions, 23 Plaintiff was warned that his failure to timely comply with the order would likely result in a 24 5 The Eastern District of California carries one of the largest and most heavily weighted 25 caseloads in the nation. See Office of the Clerk, United States District Court, Eastern District of California, 2024 Annual Report, "Weighted Filings," p. 35 (2024) ("[O]ur weighted caseload far 26 exceeds the national average . . . ranking us fourth in the nation and first in the Ninth Circuit."). 27 This problem is compounded by a shortage of jurists to review its pending matters. See generally *id.* (stating 2024 Biennial Judgeship Survey recommended request for four additional permanent 28 judgeships for Eastern District of California). 1 recommendation that Defendant's motion for terminating sanctions be granted (see ECF

2 No. 42 at 4) (Court's order stating same). Thus, Plaintiff was clearly made aware that the
3 dismissal of his case was likely if his failure to prosecute this matter persisted. In sum, there is
4 no less drastic option than dismissal. Although the disposition of cases on their merits is
5 preferred, this matter cannot be prosecuted if Plaintiff continues not to respond to the most
6 fundamental of court orders, nor can this case be disposed of on its merits. 7 C. Rule 41(b) and
Local Rule 110 Support the Dismissal of This Case

8 Rule 41(b) also supports the dismissal of this matter. It states that when a plaintiff fails to
9 prosecute a matter or he fails to obey court orders, a defendant may move to dismiss the case. 10
See Fed. R. Civ. P. 41(b). That is precisely what has happened here. A dismissal on these 11
grounds may operate as an adjudication of the matter on its merits. Id. Accordingly, a dismissal 12
of this matter with prejudice is also supported by Rule 41(b). 13 Finally, Local Rule 110 permits
the imposition of sanctions when a party fails to comply 14 with a court order. See id. As
previously noted, Plaintiff has failed to comply with the Court's 15 discovery orders.
Consequently, a dismissal of this matter is warranted under Local Rule 110 as 16 well. 17
Accordingly, IT IS HEREBY RECOMMENDED that: 18 1. Defendant's motion for terminating
sanctions (ECF No. 40) be GRANTED, consistent 19 with Federal Rules of Civil Procedure 37(b)
(2)(A)(v) and 41(b); Malone v. United States Postal 20 Service, 833 F.2d 128, 130 (9th Cir. 1987),
and Local Rule 110; 21 2. This matter be DISMISSED with prejudice, and 22 3. This case be
CLOSED. 23 These findings and recommendations are submitted to the United States District
Judge 24 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen
days 25 after being served with these findings and recommendations, any party may file written 26
objections with the Court. Such a document should be captioned "Objections to Magistrate 27
Judge's Findings and Recommendations," and it shall not exceed fifteen pages. 28 The Court will
not consider exhibits attached to the objections. To the extent that a party 1 wishes to refer to any
exhibit, when possible, the party must reference the exhibit in the record by 2 its CM/ECF
document and page number or reference the exhibit with specificity. Any pages filed 3 in excess of
the fifteen-page limit may be disregarded by the District Judge when conducting the 4 28 U.S.C. §
636(b)(l)(C) review of the findings and recommendations. A party's failure to file 5 objections
within the specified time may result in the waiver of certain rights on appeal. See 6 Wilkerson v.
Wheeler, 772 F.3d 834, 839 (9th Cir. 2014); Martinez v. Ylst, 951 F.2d 1153 (9th
7 Cir. 1991).

8 9 10 IT IS SO ORDERED. 11

12 Dated: August 29, 2025 /s/ Gary S. Austin

UNITED STATES MAGISTRATE JUDGE

13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28