

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

**Travis Ward v. California Department of Corrections and
Rehabilitation**

Ward v. CDCR · No. 1:24-cv-00467-JLT-BAM · Decided February 21, 2025

OPINION

(PC) Ward v. CDCR

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 TRAVIS WARD, Case No. 1:24-cv-00467-JLT-BAM 12 Plaintiff, ORDER ADOPTING
FINDINGS AND

RECOMMENDATIONS, GRANTING

13 v. DEFENDANT’S MOTION TO DISMISS ALL

CLAIMS FOR FAILURE TO STATE A

14 CALIFORNIA DEPARTMENT OF CLAIM, AND DISMISSING FIRST

CORRECTIONS AND AMENDED COMPLAINT WITHOUT

15 REHABILITATION, LEAVE TO AMEND

16 Defendant. (Docs. 16, 27) 17 18 Plaintiff contends that while confined at Kern Valley State
Prison in Delano, California, 19 he fell and injured his leg and back due to defendants’ failure to
remedy sewage water puddled 20 outside his cell. Plaintiff also alleges that he received inadequate
medical care after the fall. 21 (Doc. 15.) He advances claims for violation of the Americans with
Disabilities Act and 22 negligence. (Id.) Defendant California Department of Corrections and
Rehabilitation moved to 23 dismiss the operative First Amended Complaint pursuant to Federal
Rule of Civil Procedure 24 12(b)(6) for failure to state a claim. (Doc. 16.) The motion was
referred to the assigned 25 magistrate judge. (Doc. 18.) 26 On January 16, 2025, the magistrate
judge issued Findings and Recommendations that: (1) 27 CDCR’s motion to dismiss be granted;
and (2) Plaintiff’s First Amended Complaint be dismissed 28 without leave to amend. (Doc. 27.)
The magistrate judge determined that Plaintiff did not allege 1 facts to “show he was excluded
from participation in, or denied the benefits of any service or 2 programs offered by the prison
because of a disability, or that he was subjected to any type of 3 discrimination by reason of a
disability” and thus did not state a cognizable claim under the ADA. 4 (Id. at 5.) The magistrate
judge determined that Plaintiff’s claim for injunctive relief was moot 5 because he was no longer
housed at KVSP, and there was no demonstrated “reasonable 6 expectation” that he would return

to KVSP. (Id. at 6.) As a final matter, the magistrate judge 7 found that pursuant to California Government Code § 844.6(a)(2), CDCR was entitled to 8 immunity from plaintiff’s negligence claim premised on a dangerous condition of public property. 9 While acknowledging the existence of an exception to immunity under California Government 10 Code § 845.6 where a prison employee knows or has reason to know that a prisoner needs 11 immediate care, the Findings and Recommendations concluded that this exception did not apply 12 because Plaintiff failed to allege that he was denied immediate care after his fall. (Id. at 8-9.) 13 The Court served the Findings and Recommendations on all parties, and notified them that 14 any objections were due within 14 days. (Doc. 27 at 9-10.) The Court also informed the parties 15 that “the failure to file objections within the specified time may result in the waiver of the ‘right 16 to challenge the magistrate’s factual findings’ on appeal.” (Id. at 10, quoting Wilkerson v. 17 Wheeler, 772 F.3d 834, 839 (9th Cir. 2014).) On February 14, 2025, following an extension of 18 time, Plaintiff filed objections, arguing “CDCR was negligent and discriminatory against 19 [Plaintiff] for not providing necessary medical care and treatment after [his fall], including its 20 failure to provide him with a wheelchair as he requested on numerous occasions. (Doc. 31.) On

21 February 20, 2025, CDCR filed a response to the objections. (Doc. 32.)

22 According to 28 U.S.C. § 636 (b)(1)(c), this Court conducted a de novo review of the case. 23 Having carefully reviewed the entire matter, including Plaintiff’s objections, the Court concludes 24 the Findings and Recommendations are supported by the record and proper analysis. As to the 25 ADA claim, the magistrate judge correctly concluded that Plaintiff’s allegations related to his 26 requests for a wheelchair were insufficient, and Plaintiff fails to indicate how amendment would 27 address that defect. As to his negligence claim, the magistrate judge likewise correctly concluded 28 that the FAC fails to set forth facts that trigger the exception to immunity set forth in California 1 | Government Code § 845.6, which applies only to situations where a prisoner needs “immediate” 2 | medical care. Again, Plaintiffs objections fail to suggest how amendment would address the 3 | immediacy component of this exception. Therefore, the objections do not call into question the 4 | magistrate judge’s finding that the pleading deficiencies cannot be cured by further amendment. 5 | (See Doc. 27 at 9.) Thus, the Court ORDERS: 6 1. The Findings and Recommendations issued on January 16, 2025 (Doc. 27) are 7 ADOPTED. 8 2. CDCR’s motion to dismiss (Doc. 16) is GRANTED. 9 3. Plaintiff’s First Amended Complaint is DISMISSED without leave to amend. 10 4. The Clerk of the Court is directed to close this case. 11 b IT IS SO ORDERED. B Dated: _ February 21, 2025 Cerin | Tower

TED STATES DISTRICT JUDGE

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