

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Larry L. Tionson v. Jeffrey Macomber, et al.

No. 2:24-cv-02898-EFB (PC) · No. No. 2:24-cv-02898-EFB (PC) · Decided December 2, 2025

SUMMARY

The court recommends striking the plaintiff’s unsigned complaint and dismissing the action without prejudice because the plaintiff failed to submit a signed complaint after being ordered to do so. The document also orders the Clerk to randomly assign a district judge and advises the parties regarding objections to the findings and recommendations.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Edmund F. Brennan, United States Magistrate Judge
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 2, 2025
DOCKET	No. 2:24-cv-02898-EFB (PC)
DISPOSITION	other
PROCEDURAL POSTURE	A pro se state prisoner proceeding under 42 U.S.C. § 1983 failed to submit a signed complaint after the court ordered him to do so and warned that noncompliance could result in dismissal. The magistrate judge issued findings and recommendations that the unsigned complaint be stricken and the action dismissed without prejudice.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- pleadings
- civil procedure
- section 1983

PRACTICE AREAS

- civil procedure
- civil rights

QUESTIONS PRESENTED

- Whether an unsigned complaint must be stricken after the plaintiff has been given an opportunity to sign it.

2. Whether an action should be dismissed without prejudice when the plaintiff fails to submit an operative signed complaint.

HOLDINGS

1. An unsigned complaint must be stricken when the plaintiff has been given an opportunity to sign it and fails to do so.
2. The action should be dismissed without prejudice when plaintiff fails to submit a signed complaint and therefore leaves the action without an operative complaint.

KEY QUOTATIONS

“Without an operative complaint, the action should be dismissed.” (at 2)

“It is RECOMMENDED that the complaint be stricken and this action be dismissed without prejudice for failure to submit a signed complaint.” (at 2)

FACTUAL BACKGROUND

Plaintiff Larry L. Tionson, a state inmate proceeding without counsel, brought an action under 42 U.S.C. § 1983. The court directed him to submit a signed complaint within 30 days and expressly warned that failure to do so would lead to a recommendation of dismissal. The deadline passed without a signed complaint or other response.

PROCEDURAL HISTORY

The court previously ordered plaintiff to file a signed complaint within 30 days. Plaintiff did not file a signed complaint or otherwise respond. The magistrate judge ordered the clerk to randomly assign a district judge and recommended striking the complaint and dismissing the action without prejudice, subject to objections under 28 U.S.C. § 636(b)(1).

DISPOSITION

other

CASES CITED

- West v. Hulbert, No. 1:16-CV-00046-DAD, 2016 U.S. Dist. LEXIS 64378, at *1 (E.D. Cal. May 16, 2016)
- Anderson v. Krpan, No. 1:14-CV-01380-AWWI, 2015 U.S. Dist. LEXIS 11412, at *5 (E.D. Cal. Jan. 29, 2015)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1262 (9th Cir. 1992)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991)