

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

James Michael Fayed v. Secretary of CDCR, et al.

Fayed · No. 2:25-cv-2877 CSK P · Decided November 5, 2025

SUMMARY

The United States District Court for the Eastern District of California addresses the plaintiff’s motion to vacate his consent to magistrate judge jurisdiction and to reassign the case solely to a district judge. The court recommends granting withdrawal of consent under 28 U.S.C. § 636(c), because no defendants had consented or appeared, but recommends denying reassignment solely to a district judge because the case remains referred to a magistrate judge for pretrial matters under § 636(b) and the court’s local rules.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 5, 2025
DOCKET	2:25-cv-2877 CSK P
DISPOSITION	other
PROCEDURAL POSTURE	A state prisoner moved to vacate his consent to magistrate-judge jurisdiction under 28 U.S.C. § 636(c) and to reassign the case solely to a district judge. The magistrate judge issued an order and findings and recommendations.
STANDARD OF REVIEW	Discretionary review of a motion to withdraw consent before all parties have consented to magistrate-jurisdiction proceedings; withdrawal before all-party consent does not require a showing of good cause or extraordinary circumstances.
PRECEDENTIAL VALUE	Unknown; order and findings and recommendations from a federal district court, with no reporter citation.

TOPICS

- civil procedure
- prisoners rights
- civil rights

PRACTICE AREAS

civil procedure

federal courts

prisoner civil rights

QUESTIONS PRESENTED

1. Whether plaintiff could withdraw his consent to magistrate-judge jurisdiction under 28 U.S.C. § 636(c) before all parties had consented.
2. Whether plaintiff was entitled to have the case reassigned solely to a district judge rather than remain referred to a magistrate judge for pretrial matters under 28 U.S.C. § 636(b) and Local Rule 302.

HOLDINGS

1. Because no defendant had been served or appeared and plaintiff was the only person who had consented, plaintiff's consent to magistrate-judge jurisdiction under § 636(c) should be vacated.
2. Plaintiff's request to reassign the case solely to a district judge should be denied because the case remains properly referred to a magistrate judge for pretrial matters under § 636(b)(1)(B) and Local Rule 302.

KEY QUOTATIONS

“However, before all parties have consented to magistrate jurisdiction, the Ninth Circuit has held that “a party need not satisfy the good cause or extraordinary circumstances standard provided in § 636(c)(4) in order to withdraw consent.”” (at 1)

“This matter is referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. Local Rule 302 refers all prisoner cases to magistrate judges for pretrial purposes.” (at 2)

FACTUAL BACKGROUND

James Michael Fayed, a state prisoner proceeding pro se, filed a consent to jurisdiction by a United States magistrate judge under 28 U.S.C. § 636(c). No defendant had been served or appeared, and no other party had consented. Fayed then moved to vacate his consent and requested that the case be reassigned solely to a district judge.

PROCEDURAL HISTORY

Plaintiff filed his prisoner civil-rights action and then consented to magistrate-judge jurisdiction under 28 U.S.C. § 636(c). Before any defendant was served or appeared, plaintiff moved to vacate that consent and sought reassignment of the case solely to a district judge. The magistrate judge recommended granting withdrawal of the § 636(c) consent, denying reassignment away from the magistrate judge for pretrial matters, and directed the clerk to assign a district judge.

DISPOSITION

other

CASES CITED

- Dixon v. Ylst, 990 F.2d 478, 479 (9th Cir. 1993)
- Branch v. Umphenour, 936 F.3d 994, 1000, 1002-1004 (9th Cir. 2019)
- Williams v. King, 875 F.3d 500, 504 (9th Cir. 2017)
- Gilmore v. Lockard, 936 F.3d 857, 863 (9th Cir. 2019)
- Page v. California, 2008 WL 3976933, at *1 (E.D. Cal. Aug. 20, 2008)
- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 JAMES MICHAEL FAYED, No. 2:25-cv-2877 CSK P 12 Plaintiff, 13 v.
ORDER AND FINDINGS AND RECOMMENDATIONS 14 SECRETARY OF CDCR, et al., 15
Defendants. 16 17 Plaintiff is a state prisoner proceeding pro se.

On October 16, 2025, plaintiff filed a 18 consent to the jurisdiction of a U.S. Magistrate Judge pursuant to 28 U.S.C. § 636(c). (ECF No. 19 5.) On October 27, 2025, plaintiff filed a motion styled, “Motion for Vacatur/Vacation of 20 Referral to USMJ and Transfer, Reassignment to USDJ.” (ECF No. 6.) 21 I. STANDARDS GOVERNING CONSENT TO MAGISTRATE JUDGE 22 “A party to a federal civil case has, subject to some exceptions, a constitutional right to 23 proceed before an Article III judge.” Dixon v. Ylst, 990 F.2d 478, 479 (9th Cir.

1993) (citation 24 omitted). If all parties to a civil action consent, all proceedings including trial and entry of 25 judgment may be conducted by a magistrate judge. 28 U.S.C. § 636(c)(1); Branch v. Umphenour, 26 936 F.3d 994, 1000 (9th Cir. 2019); Williams v. King, 875 F.3d 500, 504 (9th Cir. 2017).

Under 27 both the United States Code and the Federal Rules of Civil Procedure, once a civil case is referred 28 to a magistrate judge under 28 U.S.C. § 636(c) (“Section 636(c)”), the reference can be 1 withdrawn by the court only “for good cause on its own motion, or under extraordinary 2 circumstances shown by any party.” 28 U.S.C. § 636(c)(4); Fed. R. Civ.

P. 73(b)(3); Branch, 936 3 F.3d at 1002. “Good cause” and “extraordinary circumstances” are high bars that are difficult to 4 satisfy. Branch, 936 F.3d at 1004. “Neither mere dissatisfaction with a magistrate judge’s 5 decisions, nor unadorned accusations that such decisions reflect judicial bias, will suffice.” Id. A 6 motion to withdraw consent or reference is to be decided by the district judge, not the magistrate 7 judge.

Id. at 1003. 8 However, before all parties have consented to magistrate jurisdiction, the Ninth Circuit 9 has held that “a party need not satisfy the good cause or extraordinary circumstances standard 10 provided in § 636(c)(4) in order to withdraw consent.” Gilmore v. Lockard, 936 F.3d 857, 863 11 (9th Cir. 2019).

In instances where the motion to withdraw consent is filed before all parties 12 consent, a district court should use its discretion to address the motion, and the majority of courts 13 have allowed such withdrawal in similar cases. *Id.* (collecting cases).

As one magistrate judge 14 explained: 15 There is a distinction between assignment of an action to a Magistrate Judge pursuant to 28 U.S.C. § 636(b) and reassignment of an action 16 to a Magistrate Judge pursuant to 28 U.S.C. § 636(c).... When an action is filed,... [and] [i]f all the parties consent to Magistrate Judge 17 jurisdiction pursuant to § 636(c), the action is reassigned by the United States District Judge assigned to the case to the Magistrate 18 Judge assigned to the case, and the Magistrate Judge conducts all further proceeding[s], including trial.

When plaintiff filled out the 19 consent/decline form and checked the box marked “Consent,” he was consenting pursuant to section 636(c). However, [at that point] 20 plaintiff’s consent did not result in reassignment of this action to a Magistrate Judge. Cases are reassigned to a Magistrate Judge only if 21 all parties consent. If one or more parties decline Magistrate Judge jurisdiction, the District Judge will resolve all dispositive matters and 22 conduct the trial, if there is one.

23 Page v. California, 2008 WL 3976933, at *1 (E.D. Cal. Aug. 20, 2008). 24 II. DISCUSSION 25 To the extent plaintiff seeks to vacate his consent to magistrate judge jurisdiction under 26 § 636(c), filed on October 16, 2025 (ECF No. 5), the Court finds that the motion should be 27 granted. No defendant has been served or appeared in this action, and therefore, no consent to 28 magistrate judge jurisdiction has been filed by anyone except plaintiff.

Therefore, the Court 1 recommends that plaintiff’s consent to magistrate judge jurisdiction under § 636(c) be vacated. 2 On the other hand, to the extent that plaintiff seeks to vacate the assignment of matters to 3 the magistrate judge under 28 U.S.C. § 636(b), and have the case reassigned solely to the district 4 judge, the Court recommends that the motion be denied.

This matter is referred to a United States 5 Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. Local Rule 302 6 refers all prisoner cases to magistrate judges for pretrial purposes. Even in the absence of consent 7 jurisdiction, which would permit the undersigned magistrate judge to conduct all proceedings up 8 to and including trial without involvement by a district judge, the undersigned remains 9 responsible for addressing dispositive and non-dispositive motions and matters prior to trial.

See 10 Local Rule 302(c)(17). Resolution of non-dispositive matters will be by order, while dispositive 11 matters will be addressed in findings and recommendations submitted to the assigned district 12 judge. 28 U.S.C. § 636(b)(1).

The district judge will be the trial judge. Thus, the undersigned 13 will address plaintiff’s request for injunctive relief contained in the complaint by findings and 14 recommendations, and the district judge will address the findings and recommendations in a final, 15 dispositive order.

Thus, plaintiff's motion to reassign this case solely to a district judge should be 16 denied. 17 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of the Court is 18 directed to assign a district judge to this case; and 19 IT IS RECOMMENDED that: 20 1. Plaintiff's motion to vacate his consent to magistrate judge jurisdiction under 28 21 U.S.C. § 636(c) (ECF No. 6) be granted; and 22 2.

Plaintiff's motion to reassign this case solely to a district judge (ECF No. 6) be denied. 23 These findings and recommendations are submitted to the United States District Judge 24 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 25 after being served with these findings and recommendations, plaintiff may file written objections 26 with the court and serve a copy on all parties.

Such a document should be captioned 27 "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that 28 failure to file objections within the specified time may waive the right to appeal the District 1 } Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). 2 3 | Dated: November 5, 2025 Cha Spo \LE_ CHI S00 KIM 5 UNITED STATES MAGISTRATE JUDGE 6 || /1/faye2877.vac.cons 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28