

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Mikel Lee Plett v. Gelman

Plett v. Gelman · No. 2:25-cv-0332-DAD-EFB (PC) · Decided January 13, 2026

SUMMARY

The United States District Court for the Eastern District of California recommends dismissing Mikel Lee Plett’s 42 U.S.C. § 1983 action without prejudice. The recommendation follows plaintiff’s failure to file an amended complaint after the original complaint was dismissed with leave to amend for failure to state a claim.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	January 13, 2026
DOCKET	2:25-cv-0332-DAD-EFB (PC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal without prejudice of a pro se prisoner's 42 U.S.C. § 1983 action after the plaintiff failed to amend his complaint following dismissal with leave to amend.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- pleadings
- section 1983
- prisoners rights
- civil procedure

PRACTICE AREAS

- civil procedure
- prisoner civil rights
- section 1983

QUESTIONS PRESENTED

- Whether the action should be dismissed without prejudice after plaintiff failed to file an amended complaint or otherwise comply with the screening order.

KEY QUOTATIONS

“Accordingly, it is RECOMMENDED that this action be DISMISSED without prejudice for the reasons stated in the November 12, 2025 screening order.” (at 1)

FACTUAL BACKGROUND

Plaintiff is a state inmate proceeding without counsel in an action under 42 U.S.C. § 1983. After screening, the court found that his complaint failed to state a claim and allowed him thirty days to amend. Plaintiff did not amend the complaint or otherwise respond within the permitted time.

PROCEDURAL HISTORY

The court screened plaintiff's complaint under 28 U.S.C. § 1915A and dismissed it for failure to state a claim, granting leave to amend within thirty days. The screening order warned that failure to comply could result in a recommendation of dismissal. Plaintiff did not file an amended complaint or otherwise respond, so the court recommended dismissal without prejudice and submitted the recommendation to the assigned district judge under 28 U.S.C. § 636(b)(1).

DISPOSITION

dismissed

CASES CITED

- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- 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 MIKEL LEE PLETT, No. 2:25-cv-0332-DAD-EFB (PC) 12 Plaintiff, 13 v.
FINDINGS AND RECOMMENDATIONS 14 GELMAN, 15 Defendant. 16 17 Plaintiff, a state
inmate, proceeds without counsel in an action brought under 42 U.S.C. § 18 1983. This proceeding
was referred to this court by Local Rule 302 pursuant to 28 U.S.C. § 19 636(b)(1).

20 On November 12, 2025, the court screened plaintiff's complaint pursuant to 28 U.S.C. § 21
1915A. ECF No. 15. The court dismissed the complaint for failure to state a claim, with leave to
22 amend within 30 days. Id. The screening order warned plaintiff that failure to comply could 23
result in a recommendation that this action be dismissed. 24 The time for acting has now passed
and plaintiff has not filed an amended complaint or 25 otherwise responded to the court's order.

Thus, it appears that plaintiff is unable or unwilling to 26 cure the defects in the complaint. 27 ////
28 //// 1 Accordingly, it is RECOMMENDED that this action be DISMISSED without prejudice 2
for the reasons stated in the November 12, 2025 screening order. 3 These findings and

recommendations are submitted to the United States District Judge 4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1).

Within fourteen days 5 after being served with these findings and recommendations, any party may file written 6 objections with the court and serve a copy on all parties. Such a document should be captioned 7 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the 8 objections shall be served and filed within fourteen days after service of the objections.

The 9 parties are advised that failure to file objections within the specified time may waive the right to 10 appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). 12 Dated: January 13, 2026 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28