

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

McCaa v. FCI-Herlong

McCaa · No. 2:24-cv-1191-DAD-CKD P · Decided May 12, 2025

SUMMARY

The court vacates prior findings and recommendations recommending dismissal for failure to prosecute after the plaintiff filed an objection and requested additional time. The magistrate judge denies the extension request as unnecessary and recommends that the action proceed only on a deliberate-indifference claim against defendant Allred, with all other claims and defendants dismissed without leave to amend.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 12, 2025
DOCKET	2:24-cv-1191-DAD-CKD P
DISPOSITION	other
PROCEDURAL POSTURE	Order vacating prior findings and recommendations, denying plaintiff's request for an extension of time, and issuing amended findings and recommendations in a federal prisoner's civil-rights action.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- civil rights
- prisoners rights
- civil procedure
- pleadings

PRACTICE AREAS

- Civil procedure
- Prisoner civil rights
- Federal courts

QUESTIONS PRESENTED

1. Whether the prior recommendation to dismiss the action for failure to prosecute should be vacated in light of plaintiff's subsequent objection.
2. Whether plaintiff should receive a 60-day extension to file supplemental briefing.
3. Whether the action should proceed solely on the deliberate-indifference claim against Allred and whether the remaining claims and defendants should be dismissed without leave to amend for failure to state a claim.

HOLDINGS

1. The April 9, 2025 findings and recommendations recommending dismissal for failure to prosecute were vacated because plaintiff objected to the recommendation.
2. Plaintiff's request for a 60-day extension to file supplemental briefing was denied as unnecessary because no issue before the court required supplemental briefing.
3. The court recommended that the case proceed on a deliberate-indifference claim against Allred and that all other claims and defendants be dismissed without leave to amend for failure to state a claim.

KEY QUOTATIONS

"Based on plaintiff's objection to the dismissal of this case for failure to prosecute, the undersigned will vacate the recommendation to dismiss on that ground." (at 1)

"Plaintiff's request for an extension of time to file a supplemental brief will be denied as unnecessary because there is no issue before the court in need of supplemental briefing." (at 1)

"In addition, IT IS RECOMMENDED that this case proceed on a deliberate indifference claim against defendant Allred and that all other claims and defendants be dismissed without leave to amend for failure to state a claim." (at 1)

FACTUAL BACKGROUND

Plaintiff is a federal prisoner proceeding without counsel and in forma pauperis. The court's screening order determined that the complaint stated a deliberate-indifference claim against Allred but failed to state any other claims. Plaintiff did not amend the complaint or timely respond to the court's order, but later filed an objection to the recommended dismissal and requested additional time to submit supplemental briefing.

PROCEDURAL HISTORY

The magistrate judge screened plaintiff's original complaint under 28 U.S.C. § 1915A and found that it stated a deliberate-indifference claim against defendant Allred but no other claims. After plaintiff failed to amend or timely respond, the court recommended dismissal without prejudice for failure to prosecute. Plaintiff then objected and requested a 60-day extension to file supplemental briefing, prompting the court to vacate the prior recommendation, deny the extension as unnecessary, and recommend proceeding only on the deliberate-indifference claim against Allred while dismissing the remaining claims and defendants without leave to amend.

DISPOSITION

other

CASES CITED

- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(PC) McCaa v. FCI-Herlong

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 CEDRIGUEZ MCCA, No. 2:24-cv-1191-DAD-CKD P

12 Plaintiff, ORDER VACATING FINDINGS AND

RECOMMENDATIONS

13 v.

AND

14 FCI-HERLONG, et al.,

AMENDED FINDINGS &

15 Defendants. RECOMMENDATIONS 16 17 18 Plaintiff is a federal prisoner proceeding in
forma pauperis and without counsel with a 19 civil rights action pursuant to 42 U.S.C. § 1983. On
February 7, 2025, the undersigned screened 20 plaintiff's original complaint filed in this action as
required by 28 U.S.C. § 1915A(a) and 21 determined plaintiff stated a deliberate indifference
claim against defendant Allred and no other 22 claims. (ECF No. 13.) Plaintiff was ordered to
notify the court whether plaintiff elected to 23 proceed on the complaint as screened or file an
amended complaint. (Id. at 5-7.) Plaintiff did not 24 file an amended complaint and failed to
respond to that order within the time granted. 25 Accordingly, on April 9, 2025, the undersigned
recommended this action be dismissed without 26 prejudice for failure to prosecute. (ECF No. 15.)
27 Subsequently, plaintiff filed a document captioned "Extension of Time..." in which 28 plaintiff
objects to the findings and recommendations filed on April 9, 2025. (ECF No. 16.) 1 || Plaintiff
also requests a 60-day extension of time to prepare a supplemental brief with "added 2 || findings
to prosecute respondents" for various violations of plaintiff's rights. (Id. at 1.) 3 Based on
plaintiff's objection to the dismissal of this case for failure to prosecute, the 4 || undersigned will
vacate the recommendation to dismiss on that ground. Plaintiff's request for an 5 || extension of
time to file a supplemental brief will be denied as unnecessary because there is no 6 || issue before
the court in need of supplemental briefing. For the reasons stated in the February 7, 7 || 2025,
screening order, the undersigned will recommend this case proceed solely on plaintiff's 8 |

deliberate indifference claim against defendant Allred and that all other claims and defendants be 9
|| dismissed without leave to amend for failure to state a claim. 10 In accordance with the above,
IT IS ORDERED as follows: 11 1. The findings and recommendations filed on April 9, 2025 (ECF
No. 15) are 12 VACATED. 13 2. Plaintiffs motion for an extension of time to file supplemental
briefing (ECF No. 16) 14 is DENIED as unnecessary. 15 In addition, IT IS RECOMMENDED
that this case proceed on a deliberate indifference 16 || claim against defendant Allred and that all
other claims and defendants be dismissed without 17 || leave to amend for failure to state a claim.
18 These findings and recommendations are submitted to the United States District Judge 19 ||
assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 20
|| after being served with these findings and recommendations, plaintiff may file written objections
21 || with the court and serve a copy on all parties. Such a document should be captioned
“Objections 22 || to Magistrate Judge’s Findings and Recommendations.” Any response to the
objections shall be 23 || filed and served within fourteen days after service of the objections. The
parties are advised that 24 || failure to file objections within the specified time may waive the right
to appeal the District 25 || Court’s order. Martinez v. YIst, 951 F.2d 1153 (9th Cir. 1991). 26 |
Dated: May 9, 2025 ☐☐ / dp ai
27 CAROLYN K DELANEY
ag | Smet bxacteamnd UNITED STATES MAGISTRATE JUDGE