

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Bealer v. Warden

No. 2:23-cv-0284-DC-JDP (P), order (E.D. Cal. May 5, 2025) · No. 2:23-cv-0284-DC-JDP (P) · Decided May 5, 2025

SUMMARY

The United States District Court for the Eastern District of California denied without prejudice the plaintiff’s motions to proceed with discovery and for summary judgment because no defendants had been identified or served and no scheduling order had issued. The court directed the plaintiff to notify it within thirty days whether he would use the U.S. Marshal to serve subpoenas seeking the identities of unknown defendants, subject to applicable fees.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 5, 2025
DOCKET	2:23-cv-0284-DC-JDP (P)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved to proceed with discovery and for summary judgment while the defendants remained unidentified and unserved and before a scheduling order had issued.
STANDARD OF REVIEW	The court applied a prematurity analysis to pending discovery and summary-judgment motions; no formal standard of review was stated.
PRECEDENTIAL VALUE	Unpublished, nonprecedential district-court order
PARTIES	Antwoine Bealer v. Warden, et al.

TOPICS

- discovery dispute
- summary judgment
- service of process
- prisoners rights
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether plaintiff's motion to proceed with discovery was premature because no defendant had been identified or served and no scheduling order had issued.
2. Whether plaintiff's motion for summary judgment was premature under the same circumstances.
3. Whether the United States Marshal was required to serve plaintiff's subpoenas without charge when plaintiff was not proceeding in forma pauperis.
4. What plaintiff was required to do to arrange service of the subpoenas and comply with the applicable service deadlines.

HOLDINGS

1. The court denied plaintiff's motion to proceed with discovery and motion for summary judgment without prejudice as premature because no defendant had been identified or served and no scheduling order had issued.
2. Because plaintiff was not proceeding in forma pauperis, the United States Marshal would not serve plaintiff's subpoenas for free; plaintiff had to arrange service himself or pay the Marshal's applicable service fees.
3. Plaintiff was required either to have each subpoena served by a qualified nonparty at least 18 years old or to bear the costs of service by the United States Marshal, including the fees specified in 28 C.F.R. § 0.114.

KEY QUOTATIONS

“However, because no defendant has been identified or served, and because no scheduling order has issued, both motions are denied without prejudice as premature.” (at 1)

“Accordingly, plaintiff must either cause each subpoena to be served himself or bear the costs of service by the U.S. Marshal.” (at 2)

FACTUAL BACKGROUND

Plaintiff had not identified or served any defendant, and the court had not issued a scheduling order. Plaintiff sought permission to proceed with discovery and moved for summary judgment. He also returned subpoenas intended to discover the identities of unknown defendants, but he was not proceeding in forma pauperis and therefore was responsible for service costs.

PROCEDURAL HISTORY

Plaintiff filed this prisoner civil-rights action against unidentified defendants and returned subpoenas seeking to discover their identities. He then moved to proceed with discovery and for summary judgment. The district court denied both motions without prejudice as premature and directed plaintiff regarding service of the subpoenas and related costs.

DISPOSITION

other

CASES CITED

- James v. Scribner, No. 1:04-cv-5878-LJO-DLB P, 2008 WL 3318879, at *1 (E.D. Cal. Aug. 11, 2008)

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