

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Mark A. Fregia v. Chen, et al.

Fregia v. Chen · No. 1:20-cv-01024-KES-EPG (PC) · Decided December 9, 2025

SUMMARY

The United States District Court for the Eastern District of California recommends denying plaintiff Mark A. Fregia’s motion for a default ruling. The court concludes that the defendant was not required to file a motion to secure the attendance of unincarcerated witnesses who agreed to testify voluntarily. The findings and recommendations were issued with a thirty-day period for objections.

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	December 9, 2025
DOCKET	1:20-cv-01024-KES-EPG (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations on plaintiff's motion for a default ruling in a prisoner civil-rights action proceeding toward trial.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- default judgment
- default
- prisoners rights
- section 1983
- civil procedure

PRACTICE AREAS

- civil rights
- civil procedure
- prisoner litigation

QUESTIONS PRESENTED

- Whether plaintiff was entitled to a default ruling or preclusion of defendant's witnesses because defendant did not file a motion for attendance of unincarcerated witnesses by the scheduling-order deadline.

HOLDINGS

1. Under the court's scheduling order, no motion was required for unincarcerated witnesses who agreed to testify voluntarily; therefore, defendant's failure to file such a motion by the deadline did not warrant a default ruling or witness preclusion.

KEY QUOTATIONS

“It is the responsibility of the party who has secured an unincarcerated witness’s voluntary attendance to notify the witness of the time and date of trial. No action need be sought or obtained from the Court.” (1)

FACTUAL BACKGROUND

The action concerns plaintiff's Eighth Amendment claim that defendant Gosso denied him medications while he was confined at the Substance Abuse Treatment Facility and State Prison in Corcoran, California. Plaintiff argued that defendant's witnesses should be precluded from testifying because defendant had not filed a motion for attendance of unincarcerated witnesses by the September 29, 2025 deadline. Defendant's pretrial statement identified unincarcerated witnesses who agreed to testify voluntarily.

PROCEDURAL HISTORY

Mark A. Fregia, a state prisoner proceeding pro se and in forma pauperis, brought a 42 U.S.C. § 1983 action alleging deliberate indifference to serious medical needs. The case proceeded to trial on an Eighth Amendment claim against defendant Gosso. Plaintiff moved for a default ruling based on the alleged failure to file a motion concerning attendance of unincarcerated witnesses. The magistrate judge recommended denial, subject to objections and review by the assigned district judge.

DISPOSITION

other

CASES CITED

- Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)