

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Michael Hernandez Gonzalez v. Wise, et al.

Gonzalez v. Wise · No. 1:23-cv-01501-KES-BAM (PC) · Decided September 22, 2025

OPINION

Wise

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 MICHAEL HERNANDEZ GONZALEZ, No. 1:23-cv-01501-KES-BAM (PC)

12 Plaintiff, ORDER ADOPTING FINDINGS AND

RECOMMENDATIONS TO DISMISS

13 v. ACTION FOR FAILURE TO STATE A

CLAIM

14 WISE, et al., (Doc. 27) 15 Defendants. 16 17 Plaintiff Michael Hernandez Gonzalez is a state
prisoner proceeding pro se and in forma 18 pauperis in this civil rights action filed pursuant to 42
U.S.C. § 1983. 19 On September 4, 2024, the assigned magistrate judge screened the first
amended 20 complaint and issued findings and recommendations, recommending that this action
be dismissed 21 for failure to state a cognizable claim upon which relief may be granted. Doc. 27.
The findings 22 and recommendations provided that any objections were to be filed within 14
days. Id. at 11. 23 Plaintiff timely filed objections on September 23, 2024, and filed further
objections on October 9, 24 2024. Docs. 28, 29. 25 In his objections, plaintiff argues that he stated
a claim relating to his placement in the 26 half-way program and the failure of various defendants
to provide immediate and necessary care. 27 However, plaintiff's objections reassert the
allegations already raised in the first amended 28 complaint and which were correctly addressed in
the findings and recommendations. Plaintiff's 1 | objections do not cure the deficiencies identified
by the magistrate judge. 2 Plaintiff also argues that Agent Wise violated his first amendment rights
by not informing 3 | the Court of plaintiff's hospitalization. Doc. 28 at 3. However, in addition to
not raising this 4 | claim in the first amended complaint, plaintiff has not alleged sufficient facts to
state a denial of 5 || access to courts claim. An access to courts claim relating to a lost opportunity
to present a claim 6 | requires a plaintiff to show: (1) the loss of a non-frivolous or arguable
underlying claim; (2) the 7 | official acts that frustrated the litigation; and (3) a remedy that may
be awarded as recompense 8 | but that is not otherwise available in a future suit. See Phillips v.

Hust, 477 F.3d 1070, 1075-76 9 | (9th Cir. 2007), vacated on other grounds, 555 U.S. 1150 (2009). Plaintiffs allegations do not 10 | state a cognizable denial of access to the courts claim. 11 In accordance with 28 U.S.C. § 636(b)(1), this Court has conducted a de novo review of 12 | this case. Having carefully reviewed the file, including plaintiffs objections, the Court finds the 13 | findings and recommendations to be supported by the record and by proper analysis. 14 Accordingly: 15 1. The findings and recommendations issued on September 4, 2024, Doc. 27, are adopted 16 in full; 17 2. This action is dismissed for failure to state a cognizable claim upon which relief may 18 be granted; and 19 3. The Clerk of the Court is directed to close this case. 20 21 92 | IT IS SO ORDERED. _

23 Dated: _ September 21, 2025 4h

UNITED STATES DISTRICT JUDGE

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