

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Edward B. Spencer v. Richard Milan

Spencer v. Milan · No. 1:20-cv-00682 JLT HBK · Decided September 17, 2025

OPINION

Milan

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 EDWARD B. SPENCER, Case No. 1:20-cv-00682 JLT HBK 12 Plaintiff, ORDER
ADOPTING FINDINGS AND

RECOMMENDATION IN FULL

13 v. (Docs. 47, 88)

14 RICHARD MILAN,

15 Defendant. 16

17 On August 27, 2025, the assigned magistrate judge issued Findings and 18 Recommendations,
recommending that the district court grant Defendant’s Motion for Summary 19 Judgment (Doc.
47) because Plaintiff failed to put forth sufficient evidence to establish the 20 essential elements to
support the conditions of confinement claim. The Findings and 21 Recommendations were served
on Plaintiff and contained notice that objections to the Findings 22 and Recommendations were to
be filed within fourteen days. (Doc. 88.) In addition, the parties 23 were “advised that failure to
file objections within the specified time may result in the waiver of 24 rights on appeal.” (Id.,
citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014); *Baxter 25 v. Sullivan*, 923 F.2d
1391, 1394 (9th Cir. 1991)). Plaintiff filed objections on September 9, 26 2025. (Doc. 89.) 27 As
an initial matter, Plaintiff does not address any of the specific findings made by the 28 magistrate
judge related to the grounds raised in his complaint. Rather, Plaintiff objects to a 1 | statement in
the Findings and Recommendations that “Notably, although inmates Lopez and 2 | Balkram’s
declarations are sworn to under penalty of perjury, both declarations appear to be in 3 | Plaintiff’s
handwriting and neither signature is legible.” (Doc. 88, 89.) However, this objection 4 | does not
call into question the magistrate judge’s finding that Plaintiff failed to establish the 5 | essential
elements of his conditions of confinement claim. (Doc. 88 at 12.) A statement noting 6 | the
similarity of the handwriting between two documents is not a finding of fact by the magistrate 7 |
judge. *Hernandez v. Kokor*, 2017 WL 6311651, at *1 (E.D. Cal. Dec. 6, 2017) (finding that an 8 |
objection based on a distinction that fails to call into question the conclusions of the magistrate 9 |

judge's finding and recommendation is of no effect). Moreover, while the assigned magistrate 10 |
judge noted the potential handwriting discrepancies, any objection based on this notation is 11 |
unavailing because she still "carefully reviewed and considered all arguments," including the 12 |
declarations by inmate Lopez and Balkram for the purposes of issuing the Findings and 13 |
Recommendations. (Doc. 88 at 4-5.) 14 According to 28 U.S.C. § 636(b)(1), this Court performed
a de novo review of this case. 15 || Having carefully reviewed the matter, the Court concludes the
Findings and Recommendations 16 || are supported by the record and proper analysis. Thus, the
Court ORDERS: 17 1. The Findings and Recommendations, filed on August 27, 2025 (Doc. 88),
are 18 ADOPTED in full. 19 2. Defendants' motion for summary judgment (Doc. 47) is
GRANTED. 20 3. The Clerk of Court is directed to terminate any pending motions/deadlines,
enter 21 judgment against Plaintiff, and close this case. 22 73 IT IS SO ORDERED. 24 Dated: _
September 17, 2025 Charis [Tourn
TED STATES DISTRICT JUDGE
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