

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

David A. Thompson v. James S. Hill, et al.

Thompson · No. 24-cv-357-TWR-DDL · Decided January 20, 2026

SUMMARY

The court grants in part and denies as moot several pro se plaintiff motions concerning amendment of the complaint, identification and service of defendants, and early discovery in a 42 U.S.C. § 1983 action. The court construes one motion as a request for leave to file a third amended complaint, permits the addition of D. Van, and directs service efforts for G. Galvan and D. Van. The magistrate judge recommends that the defendants’ motion to dismiss the superseded second amended complaint be denied as moot.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	David D. Leshner
JURISDICTION	United States District Court for the Southern District of California
DECIDED	January 20, 2026
DOCKET	24-cv-357-TWR-DDL
DISPOSITION	other
PROCEDURAL POSTURE	In a pro se 42 U.S.C. § 1983 action, the magistrate judge ruled on the plaintiff's pending motions and issued a report and recommendation concerning defendants' motion to dismiss the second amended complaint.
STANDARD OF REVIEW	Motions to amend are governed by Federal Rule of Civil Procedure 15(a)(2), under which leave should be freely given when justice so requires, subject to considerations including prejudice, bad faith, futility, and undue delay. The recommendation concerning the motion to dismiss was based on judicial economy and the anticipated superseding pleading.
PRECEDENTIAL VALUE	Nonprecedential district-court order and report and recommendation

TOPICS

- motion to amend
- service of process
- discovery dispute
- section 1983
- civil procedure

PRACTICE AREAS

civil procedure

prisoner civil rights

disability accommodations

QUESTIONS PRESENTED

1. Whether plaintiff should be granted leave to amend under Federal Rule of Civil Procedure 15(a)(2) to add D. Van as a defendant.
2. Whether early discovery to identify a John Doe defendant remained appropriate after the defendant's identity was disclosed.
3. Whether the court should direct service on G. Galvan and D. Van.
4. Whether motions concerning service and substitution should be denied as moot after service was completed or amendment was authorized.
5. Whether defendants' motion to dismiss the superseded complaint should be recommended for denial as moot.

HOLDINGS

1. The plaintiff's motion styled as a request for good cause under Rule 16(b)(4) was properly construed as a motion for leave to amend, and leave to file a third amended complaint to add D. Van was granted.
2. The motion for early discovery to identify the John Doe ADA Sergeant was denied as moot because the defendant had already been identified as G. Galvan.
3. The court directed issuance of summonses and provided for U.S. Marshal service on G. Galvan and D. Van, with service on Van conditioned on his being named in the third amended complaint.
4. The magistrate judge recommended that defendants' motion to dismiss be denied as moot because the anticipated third amended complaint would supersede the pleading targeted by the motion.

KEY QUOTATIONS

“the Court has an obligation to “liberally construe” a pro se party’s pleadings.” (at 2)

“The Court must be especially generous permitting a pro se plaintiff to amend his or her pleadings.” (at 3)

“The Third Amended Complaint must include all causes of action against all named defendants.” (at 4)

FACTUAL BACKGROUND

Plaintiff, an incarcerated person with chronic fecal incontinence, alleged that he was housed with another inmate at R.J. Donovan Correctional Facility and experienced threats and physical altercations related to nighttime cleaning and bathing. He sought single-cell status and an ADA accommodation, which officials denied. During the litigation, documents identified G. Galvan and D. Van as officials involved in evaluating the accommodation request, leading plaintiff to seek amendment and service on those individuals.

PROCEDURAL HISTORY

Plaintiff filed the action on February 22, 2024, and later filed amended complaints. After learning the identities of previously unidentified defendants, plaintiff moved to amend to add D. Van and to substitute G. Galvan for a John Doe defendant. The court granted leave to amend, directed procedures for service on Galvan and Van, denied or granted the remaining motions as moot or in part, and recommended that the district judge deny defendants' motion to dismiss as moot because a superseding complaint was anticipated.

DISPOSITION

other

CASES CITED

- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- DCD Programs, Ltd. v. Leighton, 833 F.2d 183, 186 (9th Cir. 1987)
- Moss v. U.S. Secret Serv., 572 F.3d 962, 972 (9th Cir. 2009)
- Ramirez v. Galaza, 334 F.3d 850, 861 (9th Cir. 2003)
- Yakama Indian Nation v. State of Washington Department of Revenue, 176 F.3d 1241, 1246 (9th Cir. 1999)
- Foman v. Davis, 371 U.S. 178, 182 (1962)
- Eminence Capital LLC v. Aspeon, Inc., 316 F.3d 1048, 1052 (9th Cir. 2003)
- Center for Biological Diversity v. United States Forest Service, 80 F.4th 943, 956 (9th Cir. 2023)
- Turley v. Lezano, No. 3:22-CV-1719-GPC-DDL, 2023 WL 3727939, at *2 (S.D. Cal. May 30, 2023)
- De Souza v. Dawson Technologies, Inc., No. 21-CV-1103 JLS (MSB), 2022 WL 3006045, at *4 (S.D. Cal. July 28, 2022)
- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)

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