

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Scott v. Brown

Scott · No. 2:23-cv-2749-TLN-SCR-P · Decided April 8, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations after the plaintiff failed to file objections or an amended complaint. The court dismissed the § 1983 action without prejudice for lack of prosecution and failure to comply with a court order, and directed the Clerk to close the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Troy L. Nunley
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 8, 2025
DOCKET	2:23-cv-2749-TLN-SCR-P
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's findings and recommendations in a prisoner civil-rights action after the plaintiff failed to file objections and failed to file an amended complaint as ordered.
STANDARD OF REVIEW	The court presumed the magistrate judge's factual findings correct and reviewed the magistrate judge's legal conclusions de novo.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	George Scott v. E. Brown, et al.

TOPICS

- civil procedure
- section 1983
- prisoners rights

PRACTICE AREAS

- civil procedure
- prisoner civil rights

QUESTIONS PRESENTED

1. Whether the magistrate judge's findings and recommendations should be adopted when the plaintiff filed neither objections nor the ordered amended complaint.
2. Whether the action should be dismissed without prejudice for lack of prosecution and failure to comply with a court order.

HOLDINGS

1. The district court adopted the magistrate judge's findings and recommendations in full because they were supported by the record and proper legal analysis, and the plaintiff filed no objections.
2. The action was properly dismissed without prejudice for lack of prosecution and failure to comply with the court's order requiring plaintiff to file an amended complaint.

KEY QUOTATIONS

“This action is DISMISSED, without prejudice, for lack of prosecution and for failure to comply with the Court’s order.” (at 2)

FACTUAL BACKGROUND

George Scott, a state prisoner proceeding pro se, filed an action seeking relief under 42 U.S.C. § 1983. After the magistrate judge issued findings and recommendations, Scott requested an extension of time to file a first amended complaint. The magistrate judge granted sixty days and advised that the findings and recommendations would remain in effect unless Scott filed the amended complaint within that period. Scott filed neither an amended complaint nor objections.

PROCEDURAL HISTORY

Plaintiff filed a civil-rights action under 42 U.S.C. § 1983. The matter was referred to a magistrate judge, who issued findings and recommendations on December 13, 2024. Plaintiff sought additional time to file a first amended complaint, and the magistrate judge granted sixty days while warning that the findings and recommendations would not be vacated unless plaintiff complied. Plaintiff filed neither an amended complaint nor objections, so the district court adopted the findings and recommendations and dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979)
- Robbins v. Carey, 481 F.3d 1143, 1147 (9th Cir. 2007)
- Ferdik v. Bonzelet, 963 F.2d 1258, 1260-1261 (9th Cir. 1992)

OPINION

(PC) Scott v. Brown

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10

11 GEORGE SCOTT, No. 2:23-cv-2749-TLN-SCR-P

12 Plaintiff, 13 v. ORDER 14 E. BROWN, et al., 15 Defendants. 16 17 Plaintiff George Scott
("Plaintiff"), a state prisoner proceeding pro se, filed this civil 18 rights action seeking relief under
42 U.S.C. § 1983. The matter was referred to a United States 19 Magistrate Judge pursuant to 28
U.S.C. § 636(b)(1)(B) and Local Rule 302. 20 On December 13, 2024, the magistrate judge filed
findings and recommendations which 21 were served on Plaintiff and which contained notice that
any objections to the findings and 22 recommendations were to be filed within twenty-one (21)
days. (ECF No. 13). Instead of filing 23 objections, Plaintiff filed a motion for an extension of
time to file a first amended complaint. 24 (ECF No. 14). On January 6, 2025, the magistrate judge
granted plaintiff sixty days in which to 25 file a first amended complaint. (ECF No. 15). Plaintiff
was advised that the findings and 26 recommendations issued on December 13, 2024, would not
be vacated unless Plaintiff complied 27 with the order and filed an amended complaint within the
time provided. (Id.) More than sixty 28 days have passed, and Plaintiff has not filed an amended
complaint. Nor has Plaintiff filed 1 | objections to the findings and recommendations. 2 The Court
presumes that any findings of fact are correct. See *Orand v. United States*, 602 3 | F.2d 207, 208
(9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. 4 | See *Robbins*
v. Carey, 481 F.3d 1143, 1147 (9th Cir. 2007) ("[D]eterminations of law by the 5 | magistrate judge
are reviewed de novo by both the district court and [the appellate] court[.]"). 6 | Having reviewed
the file, the Court finds the findings and recommendations to be supported by 7 | the record and by
the proper analysis. 8 Accordingly, IT IS HEREBY ORDERED that: 9 1. The findings and
recommendations, (ECF No. 13), are ADOPTED in full; and 10 2. This action is DISMISSED,
without prejudice, for lack of prosecution and for failure 11 to comply with the Court's order. See
Fed. R. Civ. P. 41(b); Local Rule 110; see also 12 *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th
Cir. 1992) (citation omitted); and 13 3. The Clerk of Court is directed to CLOSE this action. 14 5
DATED: April 7, 2025 / / 16 7,
17 TROY L. NUNLEY
ig CHIEF UNITED STATES DISTRICT JUDGE
19 20 21 22 23 24 25 26 27 28