

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

David D. Harris v. United States of America

No. 2:22-cv-01970-KJM-JDP (PC), United States District Court for the Eastern District of California (March 6, 2023)

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations after the plaintiff filed no objections. The court dismissed the second amended complaint without leave to amend for failure to state a claim, denied the plaintiff’s motion for judgment as moot, 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	Kimberly J. Mueller
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 6, 2023
DOCKET	2:22-cv-01970-KJM-JDP (PC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's findings and recommendations recommending dismissal of a state prisoner's civil rights action. After plaintiff filed no objections, the district court adopted the findings and recommendations and dismissed the second amended complaint without leave to amend.
STANDARD OF REVIEW	The court presumed the magistrate judge's findings of fact were correct and reviewed the magistrate judge's conclusions of law de novo.
PRECEDENTIAL VALUE	Unpublished district court order; no precedential status stated.
PARTIES	David D. Harris v. United States of America

TOPICS

- section 1983
- prisoners rights
- pleadings
- civil procedure

PRACTICE AREAS

Civil procedure

Civil rights

Prisoner civil rights

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's findings and recommendations when plaintiff filed no objections.
2. Whether the second amended complaint should be dismissed without leave to amend for failure to state a claim.
3. Whether plaintiff's motion for judgment should be denied as moot following dismissal of the action.

HOLDINGS

1. The district court presumed the magistrate judge's findings of fact correct and reviewed the magistrate judge's conclusions of law de novo.
2. The findings and recommendations filed January 9, 2023, were adopted in full.
3. The second amended complaint was dismissed without leave to amend for failure to state a claim.
4. Plaintiff's motion for judgment was denied as moot.

KEY QUOTATIONS

"Plaintiff's second amended complaint is dismissed without leave to amend for failure to state a claim;" (at 2)

"Plaintiff's motion for judgment, ECF No. 9, is denied as moot;" (at 2)

FACTUAL BACKGROUND

David D. Harris is a state prisoner proceeding without counsel. He brought a civil rights action seeking relief under 42 U.S.C. § 1983 and filed a second amended complaint. The magistrate judge recommended dismissal, and Harris did not file objections after receiving notice and an opportunity to do so.

PROCEDURAL HISTORY

Plaintiff, a state prisoner proceeding pro se, filed an action seeking relief under 42 U.S.C. § 1983. The matter was referred to a magistrate judge under 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. The magistrate judge issued findings and recommendations on January 9, 2023; plaintiff did not object. The district court adopted the findings and recommendations in full, dismissed the second amended complaint without leave to amend for failure to state a claim, denied plaintiff's motion for judgment as moot, and directed the clerk to close the case.

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)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 DAVID D. HARRIS, Case No. 2:22-cv-01970-KJM-JDP (PC) 12 Plaintiff,
13 v. ORDER 14 UNITED STATES OF AMERICA, 15 Defendant. 16 17 Plaintiff, a state prisoner
proceeding pro se, has filed this civil rights action seeking relief 18 under 42 U.S.C. § 1983.

The matter was referred to a United States Magistrate Judge as provided 19 by 28 U.S.C. § 636(b)
(1)(B) and Local Rule 302. 20 On January 9, 2023, the magistrate judge filed findings and
recommendations, which were 21 served on plaintiff and which contained notice to plaintiff that
any objections to the findings and 22 recommendations were to be filed within fourteen days.

Plaintiff has not filed objections to the 23 findings and recommendations. 24 The court presumes
that any findings of fact are correct. See *Orand v. United States*, 25 602 F.2d 207, 208 (9th Cir.
1979). The magistrate judge's conclusions of law are reviewed 26 de novo. See *Robbins v. Carey*,
481 F.3d 1143, 1147 (9th Cir. 2007) (“[D]eterminations of law 27 by the magistrate judge are
reviewed de novo by both the district court and [the appellate] court 28 //// 1 |....”).

Having reviewed the file, the court finds the findings and recommendations to be 2 || supported by
the record and by the proper analysis. 3 Accordingly, IT IS HEREBY ORDERED: 4 1. The
findings and recommendations filed January 9, 2023, are adopted in full; 5 2. Plaintiff's second
amended complaint is dismissed without leave to amend for failure 6 | to state a claim; 7 3.

Plaintiffs motion for judgment, ECF No. 9, is denied as moot; and 8 4. The Clerk of Court is
directed to close the case. 9 | DATED: March 6, 2023. 10 1 eee CHIEF ED STATES DISTRICT
JUDGE 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28