

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Budd v. Harrison

No. 2:23-cv-2313 KJM CSK P (E.D. Cal. Mar. 14, 2025) · No. 2:23-cv-2313 KJM CSK P · Decided March 17, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations after no party filed objections. The court dismissed the prisoner’s 42 U.S.C. § 1983 action without prejudice for failure to prosecute.

CASE DETAILS

|                    |                                                                                                                                                                           |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT              | United States District Court for the Eastern District of California                                                                                                       |
| JURISDICTION       | United States District Court for the Eastern District of California                                                                                                       |
| DECIDED            | March 17, 2025                                                                                                                                                            |
| DOCKET             | 2:23-cv-2313 KJM CSK P                                                                                                                                                    |
| DISPOSITION        | dismissed                                                                                                                                                                 |
| PROCEDURAL POSTURE | The district court reviewed a magistrate judge's findings and recommendations recommending dismissal of the prisoner civil-rights action. Neither party filed objections. |
| STANDARD OF REVIEW | The court presumed the magistrate judge's findings of fact correct and reviewed the conclusions of law de novo.                                                           |
| PRECEDENTIAL VALUE | unpublished, nonprecedential district-court order                                                                                                                         |
| PARTIES            | Dante Renee Budd v. J. Harrison, et al.                                                                                                                                   |

TOPICS

- civil rights
- prisoners rights
- civil procedure

PRACTICE AREAS

- civil procedure
- civil rights
- prisoner civil rights

QUESTIONS PRESENTED

1. Whether the magistrate judge's findings and recommendations should be adopted when neither party filed objections.
2. Whether the action should be dismissed without prejudice for plaintiff's failure to prosecute.

#### **HOLDINGS**

1. The district court adopted the magistrate judge's findings and recommendations in full because they were supported by the record and the magistrate judge's analysis, and no party filed objections.
2. The action was dismissed without prejudice based on plaintiff's failure to prosecute.

#### **KEY QUOTATIONS**

*“This action is dismissed without prejudice based on plaintiff's failure to prosecute.”* (at 2)

#### **FACTUAL BACKGROUND**

Dante Renee Budd, a state prisoner proceeding without counsel, filed a civil-rights action seeking relief under 42 U.S.C. § 1983. The magistrate judge issued findings and recommendations, and the parties did not file objections within the prescribed fourteen-day period. The district court determined that the findings and recommendations were supported by the record and adopted them in full.

#### **PROCEDURAL HISTORY**

Plaintiff, a state prisoner proceeding pro se, filed an action under 42 U.S.C. § 1983. The matter was referred to a magistrate judge, who issued findings and recommendations on January 23, 2025. After no objections were filed, the district court adopted the findings and recommendations in full and dismissed the action without prejudice for failure to prosecute.

#### **DISPOSITION**

dismissed

#### **CASES CITED**

- Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979)
- Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir. 1983)

#### **OPINION**

(PC) Budd v. Harrison

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 DANTE RENEE BUDD, No. 2:23-cv-2313 KJM CSK P

12 Plaintiff, 13 v. ORDER 14 J. HARRISON, et al., 15 Defendants. 16 17 Plaintiff, a state  
prisoner proceeding pro se, 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 23, 2025, the magistrate judge filed findings and  
recommendations, which 21 were served on all parties and which contained notice to all parties  
that any objections to the 22 findings and recommendations were to be filed within fourteen days.  
Neither party filed 23 objections to the 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 de 26 novo. See *Britt v. Simi Valley*  
*Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Having 27 reviewed the file, the court  
finds the findings and recommendations to be supported by the record 28 and by the magistrate  
judge's analysis. ] Accordingly, IT IS HEREBY ORDERED that: 2 1. The findings and  
recommendations (ECF No. 39) are adopted in full; and 3 2. This action is dismissed without  
prejudice based on plaintiff's failure to prosecute. 4 | DATED: March 14, 2025 6 = 4 Y ees  
, STATES DISTRICT JUDGE  
9 10 1] 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28