

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Alvarez v. Morris Shea Bridge Company

Alvarez · No. 1:24-cv-01487-KES-BAM · Decided July 24, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations and dismissed Sergio Alvarez’s pro se, in forma pauperis action against Morris Shea Bridge Company with prejudice. The court concluded that plaintiff failed to state a claim and failed to comply with an order requiring an amended complaint or notice of voluntary dismissal. The Clerk was directed to enter judgment and close the case.

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	July 24, 2025
DOCKET	1:24-cv-01487-KES-BAM
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court conducted de novo review of a magistrate judge's findings and recommendations under 28 U.S.C. § 636(b)(1), adopted them, and dismissed the action with prejudice.
STANDARD OF REVIEW	De novo review of the magistrate judge's findings and recommendations under 28 U.S.C. § 636(b)(1).
PRECEDENTIAL VALUE	unpublished
PARTIES	Sergio Alvarez v. Morris Shea Bridge Company

TOPICS

- motions to dismiss
- pleadings
- service of process
- civil procedure

PRACTICE AREAS

- civil procedure
- civil rights

QUESTIONS PRESENTED

1. Whether the magistrate judge's recommendation to dismiss the action with prejudice for failure to obey a court order and failure to state a claim should be adopted after de novo review.
2. Whether defendant was required to serve plaintiff before the complaint could be screened or dismissed.

HOLDINGS

1. The court adopted the magistrate judge's findings and recommendations and dismissed the action with prejudice because plaintiff failed to obey the screening order and failed to state a claim upon which relief could be granted.
2. Service on defendant was not required before the court screened and dismissed the complaint, and defendant was not required to serve plaintiff because defendant had not appeared.

KEY QUOTATIONS

“allows a district court to dismiss, sua sponte and prior to service of process, a complaint that fails to state a claim” (at 14)

FACTUAL BACKGROUND

Sergio Alvarez filed a civil action pro se and in forma pauperis. The complaint was screened and found insufficient to state a claim; plaintiff was given the option to file an amended complaint or a notice of voluntary dismissal and was warned that failure to amend could result in dismissal with prejudice. Plaintiff did not amend or otherwise respond, although he later filed objections asserting that he believed defendant should have served him and vaguely referencing a separate retaliation case.

PROCEDURAL HISTORY

Plaintiff filed a civil action proceeding pro se and in forma pauperis. The magistrate judge screened the complaint under 28 U.S.C. § 1915(e)(2), found that it failed to state a claim, and ordered plaintiff either to amend or voluntarily dismiss. After plaintiff failed to comply, the magistrate judge recommended dismissal with prejudice for failure to obey a court order and failure to state a claim. Plaintiff objected, but the district court found that the objections did not address the merits and adopted the recommendations in full.

DISPOSITION

dismissed

CASES CITED

- Lopez v. Smith, 203 F.3d 1122, 1130 (9th Cir. 2000)

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA
9 10 SERGIO ALVAREZ, No. 1:24-cv-01487-KES-BAM 11 Plaintiff, ORDER ADOPTING
FINDINGS AND RECOMMENDATIONS AND DISMISSING 12 v. CASE 13 MORRIS SHEA

BRIDGE COMPANY, Doc. 8 14 Defendant. 15 16 Plaintiff Sergio Alvarez proceeds pro se and in forma pauperis in this civil action. This 17 matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and 18 Local Rule 302.

19 On June 5, 2025, the assigned magistrate judge screened the complaint and found that it 20 failed to state a claim. Doc. 7. The screening order provided plaintiff with the relevant pleading 21 standard and ordered plaintiff to either file an amended complaint or a notice of voluntary 22 dismissal. Id. The screening order also warned plaintiff that if he failed to file an amended 23 complaint, the assigned magistrate judge would issue findings and recommendations 24 recommending that the Court dismiss this action with prejudice for failure to obey a court order 25 and failure to state a claim upon which relief may be granted.

Id. 26 Plaintiff did not file an amended complaint or otherwise respond to the screening order. 27 Accordingly, on July 14, 2025, the assigned magistrate judge issued findings and 28 recommendations recommending that this action be dismissed with prejudice for failure to obey a 1 | court order and failure to state a claim upon which relief may be granted. Doc.

8. The findings 2 | and recommendations were served on plaintiff and contained notice that any objections to the 3 | findings and recommendations were to be filed within fourteen (14) days of service. □□□ at 7. 4 | Plaintiff filed objections on July 17, 2025. Doc. 9. 5 In accordance with 28 U.S.C. § 636(b)(1), the Court has conducted a de novo review of 6 | this case.

Having carefully reviewed the file, the Court concludes that the findings and 7 || recommendations are supported by the record and proper analysis. 8 Plaintiffs objections state that he believed he should have been served by defendant and 9 | vaguely reference a separate retaliation case but do not address the merits of the findings and 10 | recommendations or screening order and do not request another opportunity to amend his 11 | complaint.

As the assigned magistrate judge explained in the screening order, the Court screens 12 | complaints brought by persons proceeding pro se and in forma pauperis. 28 U.S.C. § 1915(e)(2). 13 | Doc. 7 at 1. “Section 1915(e)(2)(B)(i)... allows a district court to dismiss, sua sponte and prior 14 | to service of process, a complaint that fails to state a claim....” *Lopez v. Smith*, 203 F.3d 1122, 15 1130 (9th Cir.

2000) (emphasis added). No service upon defendant was necessary, and as 16 | defendant has not made an appearance in this action, defendant was not required to serve plaintiff. 17 | Moreover, the docket reflects that the court served the magistrate judge’s screening order and 18 | findings and recommendations upon plaintiff on the dates they were issued. 19 Accordingly, 20 1.

The findings and recommendations issued on July 14, 2025, Doc. 8, are adopted in 21 full; 22 2. This action is dismissed with prejudice; and 23 3. The Clerk of Court is directed to enter judgment

and close the case. 24 25 26 | IT IS SO ORDERED. _ 27 Dated: _ July 23, 2025 4h | | 38 UNITED STATES DISTRICT JUDGE

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/united-states-district-court-for-the-eastern-district-of-california-united-states-district-court-for/2025/alvarez-v-morris-shea-bridge-company-k50hahgh>