

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Jeffrey Barbosa v. Nkiruka Ndu, et al.

No. 1:21-cv-00251-KES-SAB (PC), United States District Court for the Eastern District of California (August 25, 2025)

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations and granted defendants’ motion for summary judgment in a prisoner civil-rights action under 42 U.S.C. § 1983. The court concluded that defendants acted promptly regarding authorization for treatment of plaintiff’s eye condition and that treatment delays resulted from COVID-19 conditions affecting outside medical providers, rather than deliberate indifference. The court directed the Clerk to enter judgment for defendants 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	August 25, 2025
DOCKET	1:21-cv-00251-KES-SAB (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a state prisoner proceeding pro se under 42 U.S.C. § 1983, objected to a magistrate judge's findings and recommendations recommending that defendants' motion for summary judgment be granted. The district court conducted de novo review, adopted the findings and recommendations, granted summary judgment for defendants, and directed the clerk to enter judgment and close the case.
STANDARD OF REVIEW	De novo review of the magistrate judge's findings and recommendations under 28 U.S.C. § 636(b)(1). Summary judgment is proper where there is no genuine dispute of material fact and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- section 1983
- prisoners rights
- summary judgment
- cruel and unusual punishment
- civil procedure

PRACTICE AREAS

civil rights

prisoner medical care

federal civil procedure

QUESTIONS PRESENTED

1. Whether plaintiff's objections established a genuine dispute of material fact concerning defendants' alleged deliberate indifference to his eye condition.
2. Whether plaintiff's newly raised allegations and evidence concerning a vision-impaired vest, bunk assignment, referral procedures, and another inmate's February 2020 surgery required rejection of the magistrate judge's recommendation.
3. Whether defendants were entitled to summary judgment on plaintiff's § 1983 Eighth Amendment claim.

HOLDINGS

1. Plaintiff failed to identify a genuine dispute of material fact. The undisputed evidence established that defendants acted promptly in seeking authorization for care and that any delay in surgery was caused by COVID-19 conditions affecting outside providers, not deliberate indifference by defendants.
2. Defendants were entitled to summary judgment, and the magistrate judge's findings and recommendations were properly adopted.

KEY QUOTATIONS

“Even if the Court were to consider plaintiff’s assertions and evidence raised for the first time in his objections, they are unpersuasive.” (at 2)

“Moreover, as the magistrate judge found, the undisputed evidence shows that any treatment delays were not caused by defendants and were, instead, due to Covid-19 conditions affecting the outside medical care providers.” (at 2)

FACTUAL BACKGROUND

Plaintiff, a state prisoner, alleged that defendants were deliberately indifferent to his eye condition and delayed or inadequately arranged cataract surgery. The undisputed evidence showed that defendants acted promptly to seek authorization for care and that any delay in scheduling surgery resulted from COVID-19 conditions affecting outside medical providers. In his objections, plaintiff raised additional allegations concerning a vision-impaired vest, a bottom-bunk assignment, and referral procedures, but he offered no evidence that the first two alleged failures caused harm, and the court found the February 2020 comparison evidence irrelevant to pandemic policies implemented beginning no earlier than March 4, 2020.

PROCEDURAL HISTORY

The action was referred to a magistrate judge under 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. On October 14, 2022, the magistrate judge recommended granting defendants' motion for summary judgment based on the absence of a genuine dispute concerning defendants' prompt efforts to obtain authorization for eye care and the pandemic-related cause of any surgical delay. Plaintiff filed objections raising additional allegations and evidence, but the district court found them unpersuasive and adopted the recommendations in full.

DISPOSITION

other

CASES CITED

- Wood v. Houseright, 900 F.2d 1332, 1335 (9th Cir. 1990)

OPINION

(PC) Barbosa v. Ndu

PER CURIAM.

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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

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11 JEFFREY BARBOSA, No. 1:21-cv-00251-KES-SAB (PC)

12 Plaintiff, ORDER ADOPTING FINDINGS AND

RECOMMENDATIONS AND GRANTING

13 v. DEFENDANTS' MOTION FOR SUMMARY

JUDGMENT

14 NKIRUKA NDU, et al., Docs. 26, 30 15 Defendants. 16 17 Plaintiff Jeffrey Barbosa is a state
prisoner proceeding pro se and in forma pauperis in 18 this civil rights action filed pursuant to 42
U.S.C. § 1983. The matter was referred to a United 19 States magistrate judge pursuant to 28
U.S.C. § 636(b)(1)(B) and Local Rule 302. 20 On October 14, 2022, the assigned magistrate judge
issued findings and 21 recommendations recommending that defendants' motion for summary
judgment be granted.

22 Doc. 30. Specifically, the magistrate judge found that there was no genuine dispute of material
23 fact as to the finding that (1) defendants acted promptly in seeking authorization for care for 24
plaintiff's eye condition and (2) any delay in the scheduling of plaintiff's surgery was due to the
25 Covid-19 pandemic, rather than any deliberate indifference by defendants. See generally id. 26
The findings and recommendations were served on the parties and contained notice that any 27
objections thereto were to be filed within twenty-one (21) days of service. Id. at 13. Plaintiff 1
filed objections on November 3, 2022, and Defendants filed a reply on November 4, 2022.

2 Docs. 31, 32.

3 In his objections, plaintiff argues there are at least two material disputes concerning 4
defendants' care. Doc. 31. Plaintiff argues defendants failed to provide him a "Vision Impaired 5
Vest" and failed to transfer his bunk assignment to the bottom bunk. Id. at 5. Plaintiff also 6 argues
that defendants failed to "request referral properly by not deeming [his] condition 7 serious," and

he provides a declaration by another inmate stating that that inmate was able to 8 have cataract surgery in February 2020 despite the Covid-19 pandemic. Id. at 5, 21–22. The 9 assertions and attached declarations were not included in plaintiff’s complaint nor his 10 opposition to defendants’ motion for summary judgment. 11 Even if the Court were to consider plaintiff’s assertions and evidence raised for the first 12 time in his objections, they are unpersuasive. Plaintiff does not provide any evidence that 13 defendants’ alleged failure to transfer his bunk assignment and provide him a “Vision Impaired 14 Vest” resulted in any harm. See *Wood v. Houseright*, 900 F.2d 1332, 1335 (9th Cir. 1990) 15 (holding that a delay in treatment must cause substantial harm to constitute an Eighth 16 Amendment violation). And evidence regarding medical practices in February 2020 is 17 irrelevant as CDCR did not implement Covid-19 policies until at the earliest, March 4, 2020, 18 when Covid-19 was declared an emergency. Doc. 32 at 6. Moreover, as the magistrate judge 19 found, the undisputed evidence shows that any treatment delays were not caused by defendants 20 and were, instead, due to Covid-19 conditions affecting the outside medical care providers. 21 In accordance with the provisions of 28 U.S.C. § 636(b)(1), the Court conducted a de 22 novo review of this case. Having carefully reviewed the file, including plaintiff’s objections 23 and defendant’s reply, the Court concludes that the findings and recommendations are 24 supported by the record and proper analysis. 25 /// 26 /// 27 /// /// 1 Accordingly, 2 1. The findings and recommendations issued on October 14, 2022, Doc. 30, are 3 ADOPTED in full; 4 2. Defendants’ motion for summary judgment, Doc. 26, is GRANTED; and 5 3. The Clerk of Court shall enter judgment in favor of defendants and CLOSE this 6 case. 4 8 g [T IS SO ORDERED. _

10 Dated: _ August 24, 2025 4h

UNITED STATES DISTRICT JUDGE

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