

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Jeffrey M. Wiltse v. Kristina Pickering, et al.

Wiltse · No. 2:25-cv-00593-RFB-BNW · Decided January 7, 2026

SUMMARY

The United States District Court for the District of Nevada adopted a magistrate judge’s Report and Recommendation concerning Plaintiff Jeffrey M. Wiltse’s emergency motions for temporary restraining orders. The court denied the motions without prejudice as premature because the complaint had not yet been screened and the action could not proceed until the court determined whether it stated a colorable claim.

CASE DETAILS

COURT	United States District Court for the District of Nevada
JURISDICTION	United States District Court for the District of Nevada
DECIDED	January 7, 2026
DOCKET	2:25-cv-00593-RFB-BNW
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report and Recommendation concerning Plaintiff's emergency motions and a duplicative motion for a temporary restraining order after Plaintiff filed a timely objection.
STANDARD OF REVIEW	De novo review of the portions of the magistrate judge's Report and Recommendation to which specific objection was made under 28 U.S.C. § 636(b)(1) and Local Rule IB 3-2(b).
PRECEDENTIAL VALUE	Unpublished district court order; persuasive value only.
PARTIES	Jeffrey M. Wiltse v. Kristina Pickering, et al.

TOPICS

- injunctions
- subject matter jurisdiction
- civil procedure

PRACTICE AREAS

- civil procedure
- injunctive relief
- federal jurisdiction
- civil rights

QUESTIONS PRESENTED

1. Whether emergency motions seeking injunctive relief were premature and procedurally improper because they were filed before a civil action was commenced by filing a complaint.
2. Whether the later filing of a complaint made the magistrate judge's prematurity determination moot when the complaint had not yet been screened under 28 U.S.C. § 1915.
3. Whether the duplicative Motion for Temporary Restraining Order should also be denied as premature.

HOLDINGS

1. A plaintiff must first commence a civil action by filing a complaint before seeking preliminary injunctive relief; motions filed before the complaint are premature and procedurally improper.
2. The subsequent filing of a complaint does not moot the prematurity determination where the complaint had not yet been screened under 28 U.S.C. § 1915.
3. A duplicative Motion for Temporary Restraining Order filed before any complaint was filed is likewise premature and procedurally improper.

KEY QUOTATIONS

"Only after an action has been commenced can preliminary injunctive relief be obtained." (at 2)

FACTUAL BACKGROUND

Plaintiff sought emergency and temporary restraining-order relief while proceeding in forma pauperis. The first emergency motions were filed before any complaint, and the duplicative Motion for Temporary Restraining Order was also filed before a complaint. Although Plaintiff filed a complaint before filing his objection, the court had not yet screened it under 28 U.S.C. § 1915.

PROCEDURAL HISTORY

Magistrate Judge Brenda Weksler recommended denying Plaintiff's emergency motions as premature because Plaintiff had not filed a complaint when the motions were filed. Plaintiff later filed a complaint and objected to the Report and Recommendation, but the complaint had not yet been screened under 28 U.S.C. § 1915. The district court conducted de novo review, accepted and adopted the Report and Recommendation in full, and denied the three motions without prejudice.

DISPOSITION

other

CASES CITED

- Scott v. Pasadena Unified Sch. Dist., 306 F.3d 646, 654 (9th Cir. 2002)
- Stewart v. U.S. LN.S., 762 F.2d 193, 198 (2d Cir. 1985)

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 DISTRICT OF NEVADA 6 * * * 7 JEFFREY M. WILTSE, Case No. 2:25-cv-00593-RFB-BNW 8 Plaintiff, ORDER 9 v. 10 KRISTINA PICKERING, et al., 11 Defendants. 12 13 Before the Court for consideration is the Report and Recommendation of the Honorable 14 Brenda Weksler, United States Magistrate Judge, entered on April 3, 2025. See ECF No. 4.

For 15 the following reasons, the Court accepts and adopts the Report and Recommendation in full. 16 A district court “may accept, reject, or modify, in whole or in part, the findings or 17 recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). A party may file specific 18 written objections to the findings and recommendations of a magistrate judge.

28 U.S.C. § 19 636(b)(1); Local Rule IB 3-2(a). When written objections have been filed, the district court is 20 required to “make a de novo determination of those portions of the report or specified proposed 21 findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); see also Local 22 Rule IB 3-2(b). Pursuant to Local Rule IB 3-2(a), objections were due by April 16, 2025.

On April 23 9, 2025, Plaintiff filed an objection. See ECF No. 15. 24 The Magistrate Judge’s Report and Recommendation recommends that Plaintiff’s 25 emergency motions (ECF Nos. 1-1, 3) be denied as premature because, at the time of filing, 26 Plaintiff had not filed a complaint, and therefore there was no case or controversy pending before 27 the Court.

The Court has conducted a de novo review of the Report and Recommendation and 28 concurs with the Magistrate Judge’s findings, reasoning, and recommendation in full.] Federal courts are courts of limited jurisdiction, limited to deciding cases or controversies. 2| Scott v. Pasadena Unified Sch. Dist., 306 F.3d 646, 654 (9th Cir. 2002).

Before seeking injunctive 3 | relief, a plaintiff first must file a complaint with the court. Stewart v. U.S. LN.S., 762 F.2d 193, 198 (2d Cir. 1985) (“Only after an action has been commenced can preliminary injunctive relief 5 | be obtained.”); see also Fed. R. Civ. P. 3 (“A civil action is commenced by filing a complaint with 6 | the court.”).

As the Magistrate Judge noted, these Motions are premature because Mr. Wiltse is 7 | proceeding in forma pauperis. Accordingly, his case cannot move forward until the Court has 8 | screened his complaint under 28 U.S.C. § 1915 and determined it states a colorable claim. 9 | Moreover, at the time of Plaintiffs timely filed Objection, while the Plaintiff had filed a complaint 10 | (ECF No. 11) a few days prior, the Court still had not yet screened the complaint.

Thus, □□□□□□□□□□ 11 | claim that the basis for the Magistrate Judge’s finding was “moot” fails. 12 Also before the Court is Plaintiff’s duplicative Motion for Temporary Restraining Order 13 | (ECF No. 6), which is identical to the Emergency Motion for Temporary Restraining Order

(ECF No.3) addressed in the Magistrate Report and Recommendation. This Motion was also filed before 15 | any complaint was filed.

Accordingly, the Court finds this Motion is likewise premature and 16 | procedurally improper. 17 IT IS THEREFORE ORDERED that the Report and Recommendation (ECF No. 4) is 18 | ACCEPTED and ADOPTED in full. 19 IT IS FURTHER ORDERED that Plaintiff's Emergency Motion for Temporary 20) Restraining Order (ECF No. 1-1), Corrected Emergency Motion for Temporary Restraining 21) Order (ECF No. 3), and Motion for Temporary Restraining Order (ECF No. 6) are DENIED 22 | without prejudice.

23 24 DATED: January 7, 2026. 25. Fz ar RICHARD F. BOULWARE, II 28 UNITED STATES DISTRICT JUDGE -2-