

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Porter v. Rivas

No. 1:22-cv-00105-CDB (PC) (E.D. Cal. Mar. 1, 2023) · No. 1:22-cv-00105-CDB (PC) · Decided March 1,
2023

SUMMARY

The United States District Court for the Eastern District of California recommends dismissing Defendant T. Cisneros and all claims except Plaintiff Larry James Porter’s deliberate-indifference-to-serious-medical-needs claim against Defendant O. Rivas under 42 U.S.C. § 1983. The recommendations also direct the Clerk to randomly assign a district judge and provide a 14-day period for objections.

OPINION

(PC) Porter v. Rivas

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 LARRY JAMES PORTER, Case No. 1:22-cv-00105-CDB (PC) 12 Plaintiff,

FINDINGS AND RECOMMENDATIONS TO

13 v. DISMISS CERTAIN CLAIMS AND

DEFENDANT

14 O. RIVAS, et al.,

14-DAY OBJECTION PERIOD

15 Defendants. Clerk of the Court to Assign District Judge 16 17 Plaintiff Larry James Porter is a state prisoner proceeding pro se in this civil rights action. 18 On February 7, 2023, the Court issued its First Screening Order, finding Plaintiff’s 19 complaint states a cognizable claim of deliberate indifference to serious medical needs against 20 Defendant Rivas. (Doc. 16 at 5-7.) The Court further found that Plaintiff failed to state any other 21 cognizable claim against any other named Defendant. (Id.) The Court therefore directed Plaintiff 22 to file a first amended complaint curing the deficiencies in his pleading or to notify the Court that 23 he wishes to proceed only on the claims found cognizable. (Id. at 7-9.) 24 On February 23, 2022, Plaintiff filed a notice stating that he does not wish to amend his 25 complaint and is “agreeable to proceeding only with [his] cognizable deliberate indifference to 26 serious medical needs claim against Defendant Rivas.” (Doc. 17.) 27 Accordingly, and for the reasons set forth in the Court’s screening order (Doc. 16),

the Court RECOMMENDS that: 1 1. Defendant T. Cisneros be DISMISSED; and, 2 2. The claims
in Plaintiff's complaint be DISMISSED, except for its deliberate 3 indifference to serious medical
needs claims against Defendant Rivas, pursuant to 42 4 U.S.C. § 1983; and 5 3. The Clerk of the
Court is directed to randomly assign a district judge to this action. 6 These Findings and
Recommendations will be submitted to the United States District 7 | Judge assigned to this case,
pursuant to 28 U.S.C. § 636(b)(1). Within 14 days of the date of 8 || service of these Findings and
Recommendations, Plaintiff may file written objections with the 9 | Court. The document should
be captioned, "Objections to Magistrate Judge's Findings and 10 | Recommendations." Failure to
file objections within the specified time may result in waiver of 11 | rights on appeal. Wilkerson v.
Wheeler, 772 F.3d 834, 839 (9th Cir. 2014) (citing Baxter v. 12 | Sullivan, 923 F.2d 1391, 1394
(9th Cir. 1991)). 13 | IT IS SO ORDERED. "Dated: _Mareh 1, 2023 | Wr bo

15 UNITED STATES MAGISTRATE JUDGE

16 17 18 19 20 21 22 23 24 25 26 27 28