

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.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	United States Magistrate Judge
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 1, 2023
DOCKET	1:22-cv-00105-CDB (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations in a prisoner civil-rights action under 42 U.S.C. § 1983 following screening of the complaint. The magistrate judge recommended dismissal of the noncognizable claims and Defendant T. Cisneros, while allowing deliberate-indifference claims against Defendant O. Rivas to proceed.
STANDARD OF REVIEW	Mandatory screening of a prisoner civil-rights complaint under 28 U.S.C. § 1915A and review for failure to state a cognizable claim.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- prisoners rights
- section 1983
- pleadings
- civil procedure
- health law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the complaint stated any cognizable § 1983 claim against Defendant T. Cisneros or any defendant other than O. Rivas.
2. Whether the action should proceed solely on Plaintiff's deliberate-indifference-to-serious-medical-needs claims against O. Rivas after Plaintiff declined to amend.

HOLDINGS

1. The court recommended dismissing Defendant T. Cisneros and all claims except Plaintiff's deliberate-indifference-to-serious-medical-needs claims against Defendant O. Rivas.

KEY QUOTATIONS

“The Court RECOMMENDS that: 1. Defendant T. Cisneros be DISMISSED; and, 2. The claims in Plaintiff's complaint be DISMISSED, except for its deliberate indifference to serious medical needs claims against Defendant Rivas, pursuant to 42 U.S.C. § 1983; and 3. The Clerk of the Court is directed to randomly assign a district judge to this action.” (at 1)

“Failure to file objections within the specified time may result in waiver of rights on appeal.” (at 1)

FACTUAL BACKGROUND

Plaintiff Larry James Porter is a state prisoner who brought a civil-rights action concerning alleged deliberate indifference to serious medical needs. The court found that the complaint stated a cognizable claim against Defendant O. Rivas but failed to state any other cognizable claim against any other named defendant. Plaintiff declined to amend and elected to proceed only on the cognizable claims against Rivas.

PROCEDURAL HISTORY

Plaintiff, a state prisoner proceeding pro se, filed this § 1983 action. On February 7, 2023, the court screened the complaint, found a cognizable deliberate-indifference claim against Rivas, and found no other cognizable claims. Plaintiff declined to amend and agreed to proceed only on the cognizable claims. The magistrate judge then issued findings and recommendations to dismiss Cisneros and all claims other than the deliberate-indifference claims against Rivas, subject to a 14-day objection period and assignment of a district judge.

DISPOSITION

other

CASES CITED

- Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014)
- Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)

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