

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Dreves v. McGarva

Dreves · No. 2:23-cv-0044 CKD P · Decided March 13, 2023

SUMMARY

The court recommends dismissing the action without prejudice because plaintiff failed to submit a certified jail trust account statement as required by a prior order. The magistrate judge also directed the clerk to assign a district judge and advised plaintiff of the deadline and consequences for filing objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 13, 2023
DOCKET	2:23-cv-0044 CKD P
DISPOSITION	other
PROCEDURAL POSTURE	A prisoner civil-rights action was referred to a magistrate judge, who issued findings and recommendations after plaintiff failed to comply with an order requiring submission of a certified jail trust-account statement.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	David Cody Dreves v. John McGarva

TOPICS

- prisoners rights
- civil procedure

PRACTICE AREAS

- civil procedure
- prisoner civil rights

QUESTIONS PRESENTED

1. Whether plaintiff's failure to comply with the order to submit a certified jail trust-account statement warranted a recommendation of dismissal without prejudice.

HOLDINGS

1. Because plaintiff failed to comply with the January 26, 2023 order after being warned of the consequence, the magistrate judge recommended that the action be dismissed without prejudice.

KEY QUOTATIONS

“IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice.” (1)

“Plaintiff is advised that failure to file objections within the specified time waives the right to appeal the District Court’s order.” (1)

FACTUAL BACKGROUND

The court ordered David Cody Dreves to submit a certified jail trust-account statement covering the six months before he filed his complaint. The order warned that failure to comply would lead to a recommendation that the action be dismissed without prejudice. Dreves did not comply with the order.

PROCEDURAL HISTORY

On January 26, 2023, the court ordered plaintiff to submit a certified copy of his jail trust-account statement for the six-month period preceding the filing of his complaint and warned that noncompliance would result in a recommendation of dismissal without prejudice. Plaintiff did not comply. The magistrate judge ordered assignment of a district judge and recommended dismissal without prejudice, subject to objections within fourteen days.

DISPOSITION

other

CASES CITED

- Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(PC) Dreves v. McGarva

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 DAVID CODY DREVES, No. 2:23-cv-0044 CKD P

12 Plaintiff,

13 v. ORDER AND

14 JOHN MCGARVA, FINDINGS AND RECOMMENDATIONS

15 Defendant. 16

17 On January 26, 2023, the court ordered that plaintiff, within 30 days, submit a certified 18 copy
of his jail trust account statement for the six-month period immediately preceding the filing 19 of
his complaint. Plaintiff was warned that failure to so would result in a recommendation that 20 this
action be dismissed without prejudice. Plaintiff has not complied with the January 26, 2023 21
order. 22 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court assign a district 23
court judge to this case; and 24 IT IS HEREBY RECOMMENDED that this action be dismissed
without prejudice. 25 These findings and recommendations are submitted to the United States
District Judge 26 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within
fourteen days 27 after being served with these findings and recommendations, plaintiff may file
written objections 28 with the court. The document should be captioned “Objections to Magistrate
Judge’s Findings 1 | and Recommendations.” Plaintiff is advised that failure to file objections
within the specified 2 || time waives the right to appeal the District Court’s order. Martinez v. Ylst,
951 F.2d 1153 (9th 3 || Cir. 1991). 4 | Dated: March 13, 2023 Card ke yy a

5 CAROLYN K DELANEY?

6 UNITED STATES MAGISTRATE JUDGE

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