

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Rosalyn Angela Windham El v. Mercidel Howard, et al.

Windham · No. 24-cv-09344-DMR · Decided April 9, 2025

SUMMARY

The United States District Court for the Northern District of California grants Rosalyn Angela Windham El’s application to proceed in forma pauperis but questions whether the court has subject matter jurisdiction. The court concludes that the complaint does not establish federal-question jurisdiction and that the parties do not appear to be diverse because they are all alleged to be California residents. The court orders Windham to explain by May 9, 2025 why the action should not be dismissed for lack of subject matter jurisdiction.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Donna M. Ryu
JURISDICTION	United States District Court for the Northern District of California
DECIDED	April 9, 2025
DOCKET	24-cv-09344-DMR
DISPOSITION	other
PROCEDURAL POSTURE	Self-represented plaintiff filed a complaint seeking ejectment concerning real property and applied to proceed in forma pauperis. The court granted IFP status but issued an order to show cause regarding subject matter jurisdiction before any final dismissal.
STANDARD OF REVIEW	The court independently examined subject matter jurisdiction and screened the IFP complaint under 28 U.S.C. § 1915(e)(2).
PRECEDENTIAL VALUE	Unknown; district court order to show cause with no reported citation.
PARTIES	Rosalyn Angela Windham El v. Mercidel Howard, Mikkela Rose-Marie Sweet, Joyce Annette Howard

TOPICS

- subject matter jurisdiction
- civil procedure
- constitutional law
- ejectment

PRACTICE AREAS

civil procedure

constitutional law

real estate

QUESTIONS PRESENTED

1. Whether the complaint established federal-question jurisdiction under 28 U.S.C. § 1331.
2. Whether the complaint established diversity jurisdiction under 28 U.S.C. § 1332.
3. Whether the court should require plaintiff to show cause why the action should not be dismissed for lack of subject matter jurisdiction.

HOLDINGS

1. The complaint did not establish federal-question jurisdiction because it did not allege a constitutional violation or a claim arising under an identifiable federal law or treaty.
2. The complaint did not presently establish diversity jurisdiction because all parties appeared to be California citizens and the complaint did not show complete diversity.
3. Because it was not clear that the court had subject matter jurisdiction, plaintiff was ordered to explain in writing why the case should not be dismissed for lack of subject matter jurisdiction.

KEY QUOTATIONS

“Federal courts are courts of limited jurisdiction, and a “federal court is presumed to lack jurisdiction in a particular case unless the contrary affirmatively appears.”” (at 1)

“A case “arises under” federal law when federal law either (1) “creates the cause of action” or (2) “the plaintiff’s right to relief necessarily depends on resolution of a substantial question of federal law.”” (at 2)

“With a few exceptions, such as the provisions of the Thirteenth Amendment, constitutional guarantees of individual liberty and equal protection do not apply to the actions of private entities.” (at 2)

FACTUAL BACKGROUND

Windham claimed to be a Moorish American National and the trustee or fiduciary of a fee-simple property at 2943 Chestnut Street in Emeryville, California. She sought to eject alleged squatters and others associated with the property. The complaint identified Windham as domiciled in California and alleged that the individual defendants were also residents of California, while relying on Article I, Section 10, Clause 1 of the Constitution and Moorish-citizenship theories as purported jurisdictional bases.

PROCEDURAL HISTORY

Windham filed the complaint and an IFP application in federal district court. After reviewing the financial affidavit, the court found her economically eligible to proceed without prepaying fees. The court determined that the allegations did not presently establish federal-question or diversity jurisdiction and ordered Windham to explain by May 9, 2025 why the action should not be dismissed.

DISPOSITION

other

CASES CITED

- Denton v. Hernandez, 504 U.S. 25, 32 (1992)
- Stock W., Inc. v. Confederated Tribes, 873 F.2d 1221, 1225 (9th Cir. 1989)
- Franchise Tax Bd. v. Constr. Laborers Vacation Tr., 463 U.S. 1, 27-28 (1983)
- Rivet v. Regions
- Kanter v. Warner-Lambert Co., 265 F.3d 853, 857 (9th Cir. 2001)
- Edmonson v. Leesville Concrete Co., 500 U.S. 614, 619 (1991)
- Ingram El v. Crail, No. 18-cv-1976-MCE-EFB PS, 2019 WL 3860192 (E.D. Cal. Aug. 16, 2019)

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