

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Danielle Marie Weitzzel v. Officer B. Johnson, et al.

Weitzzel v. Johnson · No. 2:24-cv-2999 CSK P · Decided May 1, 2025

SUMMARY

The court recommends dismissing the action without prejudice after the plaintiff failed to file an amended complaint or otherwise respond to the court’s prior dismissal order. The order also directs the clerk to assign a district judge and advises the plaintiff of the fourteen-day period for filing objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Chi Soo Kim
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 1, 2025
DOCKET	2:24-cv-2999 CSK P
DISPOSITION	dismissed
PROCEDURAL POSTURE	After dismissing plaintiff's complaint with thirty days' leave to amend, the magistrate judge issued findings and recommendations recommending dismissal without prejudice because plaintiff failed to file an amended complaint or otherwise respond.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Danielle Marie Weitzzel v. Officer B. Johnson, et al.

TOPICS

- civil procedure
- service of process
- pleadings

PRACTICE AREAS

- civil procedure
- prisoner civil rights

QUESTIONS PRESENTED

- Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) and Local Rule 110 because plaintiff failed to file an amended complaint or otherwise respond to the

court's prior order.

HOLDINGS

1. Service of court documents at the party's address of record is fully effective under Eastern District of California Local Rule 182(f), and the party is responsible for keeping the court informed of a current address.
2. When a plaintiff fails to file an amended complaint or otherwise respond after being given leave and a deadline to amend, dismissal without prejudice is appropriate under Federal Rule of Civil Procedure 41(b) and Local Rule 110.

KEY QUOTATIONS

"It is the plaintiff's responsibility to keep the Court apprised of his current address at all times." (at 1)

"Pursuant to Local Rule 182(f), service of documents at the record address of the party is fully effective." (at 1)

FACTUAL BACKGROUND

The court had previously dismissed plaintiff's complaint and granted thirty days to amend. Plaintiff neither filed an amended complaint nor responded after the thirty-day period expired. The court found that plaintiff was properly served even though the copy of the prior order appeared to have been returned, because service at the address of record was effective and plaintiff had a responsibility to keep the court apprised of a current address.

PROCEDURAL HISTORY

The court dismissed plaintiff's complaint on March 24, 2025, and granted thirty days to file an amended complaint. Plaintiff did not file an amended complaint or otherwise respond within that period. Although plaintiff's copy of the prior order was returned, the court found that plaintiff had been properly served and recommended dismissal without prejudice under Federal Rule of Civil Procedure 41(b) and Local Rule 110.

DISPOSITION

dismissed

CASES CITED

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

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 DANIELLE MARIE WEITZEL, No. 2:24-cv-2999 CSK P 12 Plaintiff, 13
v. ORDER AND FINDINGS & RECOMMENDATIONS 14 OFFICER B. JOHNSON, et al., 15
Defendants. 16 17 By order filed March 24, 2025, plaintiff's complaint was dismissed and thirty
days leave 18 to file an amended complaint was granted.

Thirty days from that date have now passed, and 19 plaintiff has not filed an amended complaint, or otherwise responded to the Court's order. 20 Although it appears from the file that plaintiff's copy of the order was returned, plaintiff 21 was properly served. It is the plaintiff's responsibility to keep the Court apprised of his current 22 address at all times.

Pursuant to Local Rule 182(f), service of documents at the record address of 23 the party is fully effective. 24 In accordance with the above, IT IS HEREBY ORDERED that the Clerk of the Court is 25 directed to assign a district judge to this case; and 26 IT IS RECOMMENDED that this action be dismissed without prejudice. See Local Rule 27 110; Fed. R. Civ. P. 41(b).

28 ///] These findings and recommendations are submitted to the United States District Judge 2 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 3 || after being served with these findings and recommendations, plaintiff may file written objections 4 || with the court and serve a copy on all parties. Such a document should be captioned 5 || "Objections to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that 6 || failure to file objections within the specified time may waive the right to appeal the District 7 || Court's order.

Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991). 8 9 || Dated: May 1, 2025 4 aA 10 Aan Spe | CHI
SOO KIM M UNITED STATES MAGISTRATE JUDGE 12 | srweiz2999.Fa 13 14 15 16 17 18 19
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