

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Lloyd Thomas Bernhard, II v. County of San Joaquin, et al.

No. 2:25-cv-01465-DC-SCR, United States District Court for the Eastern District of California (October 2, 2025)

SUMMARY

A United States magistrate judge recommends dismissing Lloyd Thomas Bernhard, II’s pro se civil action against the County of San Joaquin and other defendants without prejudice for failure to effect service within the time required by Federal Rule of Civil Procedure 4(m). The recommendation also directs the Clerk to enter judgment and close the case, subject to the parties’ right to file objections.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	October 2, 2025
DOCKET	2:25-cv-01465-DC-SCR
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal without prejudice for failure to serve defendants within the time required by Federal Rule of Civil Procedure 4(m).
PRECEDENTIAL VALUE	nonprecedential

TOPICS

service of process civil procedure

PRACTICE AREAS

civil procedure federal civil rights

QUESTIONS PRESENTED

- Whether the action should be dismissed without prejudice because Plaintiff failed to serve Defendants within 90 days as required by Federal Rule of Civil Procedure 4(m).
- Whether Plaintiff demonstrated good cause warranting an extension of the service period.

HOLDINGS

- 1. The court recommended dismissal without prejudice because Plaintiff did not serve Defendants within 90 days, did not file proof of service, and did not establish good cause for an extension.

KEY QUOTATIONS

“If a defendant is not served within 90 days after the complaint is filed, the court--on motion or on its own after notice to the plaintiff--must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.” (at 1)

FACTUAL BACKGROUND

Plaintiff filed the action and obtained issuance of summons, but more than 90 days passed without any defendant being served or any return or proof of service being filed. Plaintiff’s motion for an extension of time was denied because it did not demonstrate good cause. Plaintiff also failed to respond to the court’s order to show cause regarding dismissal.

PROCEDURAL HISTORY

Plaintiff filed the action on May 27, 2025, and summons issued the same day. Plaintiff later sought a 90-day extension to complete service, but the court denied the motion for lack of good cause. After the 90-day service period expired, the court issued an order to show cause; Plaintiff did not respond, and no proof of service or defendant appearance was filed. The magistrate judge therefore recommended dismissal without prejudice and closure of the case, subject to objections and review by the assigned district judge.

DISPOSITION

other

CASES CITED

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

OPINION

Lloyd Thomas Bernhard, II v. County of San Joaquin, et al.

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 LLOYD THOMAS BERNHARD, II, No. 2:25-cv-01465-DC-SCR

12 Plaintiff,

13 v. FINDINGS AND RECOMMENDATIONS

14 COUNTY OF SAN JOAQUIN, et al., 15 Defendants. 16 17 Plaintiff is proceeding pro se in
this matter, which is referred to the undersigned pursuant 18 to Local Rule 302(c)(21) and 28
U.S.C. § 636(b)(1). The record reflects that more than 90 days 19 have passed since the filing of
this action and no return/proof of service is on file, nor has any 20 Defendant appeared.
Additionally, Plaintiff did not respond to the Court's Order to Show Cause 21 (OSC) issued on
September 3, 2025. Accordingly, the Court recommends that this action be 22 dismissed for failure
to effect service pursuant to Federal Rule of Civil Procedure 4(m). 23 I. Time Limit for Service 24
Plaintiff filed this action on May 27, 2025. ECF No. 1. Summons issued on the same 25 day. ECF
No. 2. Federal Rule of Civil Procedure 4(l) states that "proof of service must be made 26 to the
court." Federal Rule of Civil Procedure 4(m) provides in relevant part: "If a defendant is 27 not
served within 90 days after the complaint is filed, the court--on motion or on its own after 28
notice to the plaintiff--must dismiss the action without prejudice against that defendant or order 1 |
that service be made within a specified time. But if the plaintiff shows good cause for the failure, 2
| the court must extend the time for service for an appropriate period." On July 28, 2025, Plaintiff
3 || filed a motion for a 90-day extension of time to complete service. ECF No. 4. The Court found
4 | the motion did not demonstrate good cause and denied the motion. ECF No. 5. The 90 days in 5
|| which to effect service expired on August 25, 2025. The Court then issued an OSC on September
6 || 3, 2025, directing Plaintiff to show cause within 14 days as to why the action should not be 7 ||
dismissed. Plaintiff did not respond to the OSC, and now more than four months have passed 8 |
since the filing of the action and Plaintiff has not filed returns/proof of service. 9 Therefore, IT IS
HEREBY RECOMMENDED that: 10 1. This action be dismissed, without prejudice, for failure to
effect service pursuant to 11 Federal Rule of Civil Procedure 4(m); and 12 2. The Clerk be
directed to enter Judgment and close this case. 13 These findings and recommendations are
submitted to the United States District Judge 14 | assigned to this case, pursuant to the provisions
of 28 U.S.C. § 636(b)(1). Within fourteen (14) 15 | days after being served with these findings and
recommendations, either party may file written 16 | objections with the court. Such document
should be captioned "Objections to Magistrate Judge's 17 | Findings and Recommendations."
Local Rule 304(d). The parties are advised that failure to file 18 | objections within the specified
time may waive the right to appeal the District Court's order. 19 | Martinez v. Yist, 951 F.2d 1153
(9th Cir. 1991). 20 | DATED: October 1, 2025 21 22 Kink
23 cnrrED STATES MAGESTRATE JUDGE
24 25 26 27 28