

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

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

Windham El v. Howard · No. 24-cv-09344-WHO · Decided July 10, 2025

SUMMARY

The United States District Court for the Northern District of California adopted a magistrate judge’s Report and Recommendation and dismissed the case without prejudice for lack of subject matter jurisdiction. The court found no federal-question jurisdiction and no diversity jurisdiction because the parties appeared to be California residents. The court also noted that the plaintiff failed to respond to the jurisdictional order or object to the recommendation.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	William H. Orrick
JURISDICTION	United States District Court for the Northern District of California
DECIDED	July 10, 2025
DOCKET	24-cv-09344-WHO
DISPOSITION	dismissed
PROCEDURAL POSTURE	Pro se plaintiff filed a complaint seeking ejectment from real property and an application to proceed in forma pauperis. After a magistrate judge recommended dismissal for lack of subject matter jurisdiction and failure to prosecute, with no objections filed, the district court adopted the recommendation and dismissed the case without prejudice.
STANDARD OF REVIEW	The district court reviewed the record and the uncontested report and recommendation and adopted it in full.
PRECEDENTIAL VALUE	Unknown; district court order with no reporter citation.

TOPICS

- subject matter jurisdiction
- ejectment
- lis pendens
- civil procedure
- real estate

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the complaint established federal-question jurisdiction over Windham's ejectment claim.
2. Whether diversity jurisdiction existed when Windham and the defendants appeared to be citizens or residents of California.
3. Whether the case should be dismissed without prejudice for lack of subject matter jurisdiction after Windham failed to respond to the magistrate judge's jurisdictional order and filed no objection to the report and recommendation.

HOLDINGS

1. The complaint did not establish federal-question jurisdiction because the requested ejectment from property did not arise under the United States Constitution, a federal law, or a treaty of the United States.
2. Diversity jurisdiction was absent because Windham and the defendants appeared to be residents of California.
3. The case was dismissed without prejudice for lack of subject matter jurisdiction.

KEY QUOTATIONS

“In light of these uncontested facts that make clear that this court lacks subject matter jurisdiction over this case, and given Windham’s failure to object to Judge Ryu’s Report and Recommendation, this case is DISMISSED without prejudice.” (at 3)

FACTUAL BACKGROUND

Windham alleged that she was a Moorish American National and the trustee or fiduciary of a trust connected to property in Emeryville, California. She sought to eject alleged squatters, including defendants residing at the property. Windham alleged that she and the defendants were California residents, and the complaint did not identify a federal constitutional, statutory, treaty, or other federal-law claim.

PROCEDURAL HISTORY

Windham filed the complaint and an IFP application on December 23, 2024. Magistrate Judge Donna Ryu granted IFP status but found no federal-question or diversity jurisdiction, ordered Windham to explain why the case should not be dismissed, and issued a report and recommendation after Windham failed to respond. Windham filed a request for notice of lis pendens after the report and recommendation, but it did not address subject matter jurisdiction. The district court adopted the recommendation and dismissed the case without prejudice.

DISPOSITION

dismissed

CASES CITED

- Ingram El v. Crail, No. 18-cv-1976-MCE-EFB PS, 2019 WL 3860192 (E.D. Cal. Aug. 16, 2019)

OPINION

Windham v. Howard

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 ROSALYN ANGELA WINDHAM EL, Case No. 24-cv-09344-WHO 8 Plaintiff,

ORDER DISMISSING CASE FOR

9 v. LACK OF SUBJECT MATTER

JURISDICTION

10 MERCIDEL HOWARD, et al., Re: Dkt. Nos. 2, 12 Defendants. 11 12 13 On May 12, 2025, Magistrate Judge Donna Ryu issued a Report and Recommendation that 14 I dismiss this case. Dkt. No. 12. The deadline for objections has passed and none was filed.1 15 Having reviewed the record in this case, I agree with Judge Ryu’s recommendation and 16 adopt it in full. On December 23, 2024, se plaintiff Rosalyn Angela Windham El (“Windham”) 17 filed a complaint and an application for leave to proceed in forma pauperis (“IFP”). Dkt. Nos. 1 18 (Complaint, or “Compl.”), 2 (IFP Application). Windham alleges that she is a Moorish American 19 National and “ancient American Inhabitant Executor Fiduciary and Successor Trustee of [a] Trust 20 in Fee Simple Absolute,” a property with address 2943 Chestnut St, Emeryville, CA 94608 (the 21 “Property”). See Complaint. Through the complaint, Windham seeks the ejection from the 22 Property of “all squatter persons, principle, agents, heirs and assign named on the grant deed and 23 all current improvements”; it can be inferred from the pleadings that Windham refers to the two 24 individual defendants whom Windham alleges reside at the Property. See generally Compl. 25 On April 9, 2025, Magistrate Judge Donna Ryu considered Windham’s complaint and IFP 26 application pursuant to 28 U.S.C. § 1915(a). Judge Ryu granted Windham’s IFP application, see 27 1 Dkt. No. 11 at 2, but determined from the complaint that this court lacks subject matter 2 jurisdiction over Windham’s claims, see id. at 2-3. As Judge Ryu laid out, Windham’s complaint 3 does not allege a constitutional violation, and the ejection from property that Windham seeks 4 through this action does not arise under the United States Constitution or other identifiable law or 5 treaty of the United States, meaning the court lacks federal question jurisdiction. See Dkt. No. 11 6 at 2-3; see generally, Compl. Windham and the defendants also do not enjoy diversity of 7 citizenship: Windham sets forth in the Complaint that she is domiciled in California, and she 8 indicates that the two defendants are residents of the Property, which is located at 2943 Chestnut 9 St, Emeryville, CA. Id. 1, 2, 3-4. The court lacks diversity jurisdiction because all three parties 10 appear to be residents of California.2 See Dkt. No. 11 at 3-4. 11 On April 9, 2025, Judge Ryu

ordered Windham to “explain in writing” by no later than

12 May 9, 2025, “why this case should not be dismissed for lack of subject matter jurisdiction.” Dkt.

13 No. 11 at 3-4. Judge Ryu informed Windham that if she failed to respond by that date, or if her 14 response failed to establish a basis for subject matter jurisdiction, the court may prepare a report 15 and recommendation recommending dismissal of the case. Id. at 4. Judge Ryu then referred 16 Windham to the court’s resources for pro se plaintiffs. Windham did not file a response. 17 Accordingly, on May 12, 2025, Judge Ryu issued a report and recommendation to dismiss the 18 complaint without prejudice for failure to prosecute. Objections were due on May 27, 2025. Dkt.

19 No. 12. No objection was filed by that date.

20 On May 29, 2025, Windham filed what she styled as a “Request for Notice of Lis 21 Pendens.” Dkt. No. 14. The notice re-asserted facts alleged in her complaint; that Windham, a 22 resident of California, was seeking the ejectment of defendant Joyce Annette Howard, also a 23 resident of California, from the Property.³ The notice was not responsive to Judge Ryu’s 24 2 As Judge Ryu noted, to the extent Windham might wish to rely on her Moorish citizenship to 25 bypass the diversity requirement, “courts have not been receptive to such arguments.” See, e.g., *Ingram El v. Crail*, No. 18-cv-1976-MCE-EFB PS, 2019 WL 3860192, (E.D. Cal. Aug. 16, 2019) 26 (“Plaintiff’s Moorish citizenship argument is a frivolous attempt to establish diversity jurisdiction where none exists, and the ploy is not new.” (collecting cases)). 27 1 questions about subject matter jurisdiction. It did not raise any new issues that would give rise to 2 || federal question jurisdiction and it reiterated that the parties in this case are all residents of 3 || California, meaning this court lacks diversity jurisdiction. 4 In light of these uncontested facts that make clear that this court lacks subject matter 5 || jurisdiction over this case, and given Windham’s failure to object to Judge Ryu’s Report and 6 || Recommendation, this case is DISMISSED without prejudice. 4 8 IT IS SO ORDERED. 9 Dated: July 10, 2025 10 11 I . Orrick 12 nited States District Judge 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 Street, Emeryville, CA.” Given the relative proximity of Emeryville and Oakland and the identical 28 street addresses, it can be inferred that the two differently listed addresses refer to the same property.