

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)

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