

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WASHINGTON

Ali Kane v. Carmack, et al.

Kane · No. 2:25-cv-01972-DGE-TLF · Decided December 9, 2025

SUMMARY

The United States District Court for the Western District of Washington directs service of Ali Kane’s amended 42 U.S.C. § 1983 complaint on several law-library defendants. The order also sets response deadlines and explains filing, service, motion, and notice requirements applicable to the pro se incarcerated plaintiff and defendants.

CASE DETAILS

COURT	United States District Court for the Western District of Washington
WRITING FOR THE COURT	Theresa L. Fricke
JURISDICTION	United States District Court for the Western District of Washington
DECIDED	December 9, 2025
DOCKET	2:25-cv-01972-DGE-TLF
DISPOSITION	other
PROCEDURAL POSTURE	The court reviewed plaintiff's amended civil-rights complaint brought under 42 U.S.C. § 1983 and issued an order directing service on the named defendants and establishing case-management, filing, motion, and response requirements.
STANDARD OF REVIEW	The court reviewed the complaint to determine the appropriate service and case-management directives; no appellate standard of review was applied.
PRECEDENTIAL VALUE	nonprecedential procedural order
PARTIES	Ali Kane v. Carmack, David Pauli, Pete Maxson

TOPICS

- service of process
- prisoners rights
- section 1983
- civil procedure
- motions to dismiss

PRACTICE AREAS

- civil procedure
- prisoner civil rights
- service of process

QUESTIONS PRESENTED

1. Whether the Clerk should serve the amended § 1983 complaint and waiver materials on the named defendants.
2. What deadlines and filing requirements apply to defendants and the parties following service.
3. Whether defendants moving to dismiss or for summary judgment must provide a Rand and/or Wyatt notice to the pro se incarcerated plaintiff.

HOLDINGS

1. The Clerk must send the defendants copies of the amended complaint, the service order, the notice of lawsuit and request for waiver of service, and the waiver of service by email.
2. A defendant who timely returns the waiver must answer or file a permitted Rule 12 motion within 60 days after the date designated on the notice of lawsuit; a defendant personally served after failing to return the waiver must answer or file a permitted Rule 12 motion within 21 days after service.
3. Defendants filing a motion to dismiss or motion for summary judgment must concurrently serve the required Rand and/or Wyatt notice; failure to do so may result in the motion being stricken from the court's calendar with leave to refile.

KEY QUOTATIONS

“Defendants filing motions to dismiss or motions for summary judgment are advised that they MUST serve a Rand and/or Wyatt notice concurrently with motions to dismiss and motions for summary judgment so that pro se prisoner plaintiffs will have fair, timely and adequate notice of what is required of them in order to oppose those motions.” (at 4)

“A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case. Rule 56 tells you what you must do in order to oppose a motion for summary judgment.” (at 4-5)

FACTUAL BACKGROUND

Ali Kane is incarcerated at Monroe Correctional Complex's Intensive Management Unit and brought a civil-rights action under 42 U.S.C. § 1983. The defendants identified for service include MCC-IMU law librarians Carmack and David Pauli and law-librarian supervisor Pete Maxson. The court reviewed Kane's amended complaint and directed service by the Clerk.

PROCEDURAL HISTORY

Plaintiff, an incarcerated person proceeding pro se and in forma pauperis, filed a § 1983 action and an amended complaint. After reviewing the amended complaint, the district court ordered the Clerk to serve the defendants by email with the complaint, waiver materials, and related documents.

DISPOSITION

other

CASES CITED

- Woods v. Carey, 684 F.3d 934, 941 (9th Cir. 2012)
- Rand v. Rowland, 154 F.3d 952, 963 (9th Cir. 1998)
- Wyatt v. Terhune, 315 F.3d 1108 (9th Cir. 2003)

OPINION

Kane

PER CURIAM.

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4 UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON

5 AT TACOMA

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ALI KANE,

Case No. 2:25-cv-01972-DGE- 7 Plaintiff, v. TLF 8

CARMACK, et al., ORDER DIRECTING SERVICE

9 OF CIVIL RIGHTS COMPLAINT

Defendants. 10 11 This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff is 12 proceeding with this action pro se and in forma pauperis. Plaintiff is currently 13 incarcerated at Monroe Correctional Complex – Intensive Management Unit (MCC-IMU) 14 and is subject to Mandatory Electronic E-Filing pursuant to General Orders 02-15 and 15 06-16. The Court, having reviewed plaintiff’s complaint, hereby ORDERS as follows: 16 (1) Service by Clerk 17 The Clerk is directed to send the following to Defendants Carmack (MCC-IMU 18 law librarian), David Pauli (MCC-IMU law librarian), Pete Maxson (MCC-IMU law 19 librarian supervisor) by e-mail: copies of plaintiff’s amended complaint (Dkt. 5), this 20 Order, the notice of lawsuit and request for waiver of service of summons, and a waiver 21 of service of summons. 22 (3) Response Required 23 24 1 Defendant(s) shall have thirty (30) days within which to return the enclosed 2 waiver of service of summons. A defendant who timely returns the signed waiver shall 3 have sixty (60) days after the date designated on the notice of lawsuit to file and serve 4 an answer to the complaint or a motion permitted under Rule 12 of the Federal Rules of 5 Civil Procedure. 6 A defendant who fails to timely return the signed waiver will be personally served 7 with a summons and complaint, and may be required to pay the full costs of such 8 service, pursuant to Rule 4(d) (2) of the Federal Rules of Civil Procedure. A defendant 9 who has been personally served shall file an answer or motion permitted under Rule 12 10 within twenty-one (21) days after service. 11 (3) Filing and Service by Parties, Generally 12 All attorneys admitted to practice before this Court are required to file documents 13 electronically via the Court’s CM/ECF system. Counsel are directed to the Court’s 14 website, www.wawd.uscourts.gov, for a detailed description of the requirements for 15 filing via CM/ECF. Plaintiff shall file all documents electronically. All filings

must indicate in the upper right hand corner the name of the magistrate judge to whom the document is directed. Any document filed with the Court must be accompanied by proof that it has been served upon all parties that have entered a notice of appearance in the underlying matter. Plaintiffs shall indicate the date the document is submitted for e-filing as the date of service. (4) Motions, Generally 1 Any request for court action shall be set forth in a motion, properly filed and served. Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a part of the motion itself and not in a separate document. The motion shall include in its caption (immediately below the title of the motion) a designation of the date the motion is to be noted for consideration upon the Court's motion calendar. 6 Stipulated and agreed motions, motions to file over-length motions or briefs, 7 motions for reconsideration, joint submissions pursuant to the option procedure 8 established in LCR 37(a) (2), motions for default, requests for the clerk to enter default 9 judgment, and motions for the court to enter default judgment where the opposing party 10 has not appeared shall be noted for consideration on the day they are filed. See LCR 11 7(d)(1). All other non-dispositive motions shall be noted for consideration no earlier than 12 21 days after filing and service of the motion. See LCR 7(d)(3). All dispositive motions 13 shall be noted for consideration no earlier than 28 days after filing and service of the 14 motion. LCR 7(d)(4). 15 For electronic filers, all briefs and affidavits in opposition to either a dispositive or 16 non-dispositive motion shall be filed and served not later than 11:59 p.m. on the 17 Monday immediately preceding the date designated for consideration of the motion. 18 The party making the motion may electronically file and serve not later than 19 11:59 p.m. on the date designated for consideration of the motion, a reply to the 20 opposing party's briefs and affidavits. 21 (5) Motions to Dismiss and Motions for Summary Judgment 22 Parties filing motions to dismiss pursuant to Rule 12 of the Federal Rules of Civil 23 Procedure and motions for summary judgment pursuant to Rule 56 of the Federal Rules 24 1 of Civil Procedure should acquaint themselves with those rules. As noted above, these 2 motions shall be noted for consideration no earlier than 28 days after filing and service 3 of the motion. LCR 7(d)(4). 4 Defendants filing motions to dismiss or motions for summary judgment are 5 advised that they MUST serve a Rand and/or Wyatt notice concurrently with motions to 6 dismiss and motions for summary judgment so that pro se prisoner plaintiffs will have 7 fair, timely and adequate notice of what is required of them in order to oppose those 8 motions. Woods v. Carey, 684 F.3d 934, 941 (9th Cir. 2012). The Ninth Circuit has set 9 forth model language for such notices: 10 A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case. 11 Rule 56 tells you what you must do in order to oppose a motion for 12 summary judgment. Generally, summary judgment must be granted when there is no genuine issue of material fact – that is, if there is no 13 real dispute about any fact that would affect the result of your case, the party who asked for summary judgment is entitled to judgment 14 as a matter of law, which will end your case. When a party you are suing makes a motion for summary judgment that is properly 15 supported by declarations (or other sworn testimony), you

cannot simply rely on what your complaint says. Instead, you must set out 16 specific facts in declarations, depositions, answers to interrogatories, or authenticated documents, as provided in 17 Rule 56(e), that contradict the facts shown in the defendant's declarations and documents and show that there is a genuine 18 issue of material fact for trial. If you do not submit your own evidence in opposition, summary judgment, if appropriate, may 19 be entered against you. If summary judgment is granted, your case will be dismissed and there will be no trial. 20 *Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (emphasis added); *Wyatt v. Terhune*, 21 315 F.3d 1108 (9th Cir. 2003). 22 Defendants who fail to file and serve the required *Rand* and *Wyatt* notice on 23 plaintiff may have their motion stricken from the Court's calendar with leave to re-file. 24 1 (6) Direct Communications with District Judge or Magistrate Judge 2 No direct communication is to take place with the District Judge or Magistrate 3 Judge with regard to this case. All relevant information and papers are to be directed to 4 the Clerk. 5 (7) The Clerk is directed to send copies of this Order and of the Court's pro se 6 instruction sheet to plaintiff. The Clerk is further directed to send a copy of this Order 7 and a courtesy copy of the complaint to the Washington State Attorney General's Office 8 by e-mail. 9 Dated this 9th day of December, 2025. 10 11 A 12 Theresa L. Fricke 13 United States Magistrate Judge 14 15 16 17 18 19 20 21 22 23 24