

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Valenzuela v. Thorntona

Valenzuela · No. 2:23-cv-02494-DAD-EFB (PC) · Decided May 19, 2025

SUMMARY

The magistrate judge recommends dismissing Mario A. Valenzuela’s 42 U.S.C. § 1983 action without prejudice because he failed to file a second amended complaint after the first amended complaint was dismissed for failure to state a claim. The findings and recommendations advise the parties of the fourteen-day period for filing objections under 28 U.S.C. § 636(b)(1).

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Edmund F. Brennan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 19, 2025
DOCKET	2:23-cv-02494-DAD-EFB (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Findings and recommendations by a magistrate judge recommending dismissal without prejudice after plaintiff failed to file a second amended complaint following dismissal of his first amended complaint for failure to state a claim.
STANDARD OF REVIEW	The court reviewed the pleading under the screening requirement of 28 U.S.C. § 1915A and considered plaintiff's failure to comply with the order granting leave to amend.
PRECEDENTIAL VALUE	Nonprecedential findings and recommendations; not a final district court judgment in the source.
PARTIES	Mario A. Valenzuela v. Thorntona, et al.

TOPICS

- pleadings
- motions to dismiss
- section 1983
- prisoners rights
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice after plaintiff failed to file a second amended complaint or otherwise comply with the court's screening order.

HOLDINGS

1. The court recommended that the action be dismissed without prejudice because plaintiff did not file a second amended complaint or otherwise respond after receiving an opportunity to cure the deficiencies identified in the first amended complaint.

KEY QUOTATIONS

“Accordingly, it is *RECOMMENDED* that this action be *DISMISSED* without prejudice for the reasons stated in the February 21, 2025 screening order.” (2)

FACTUAL BACKGROUND

Plaintiff is a state inmate who brought an action under 42 U.S.C. § 1983 without counsel. After the court screened his first amended complaint and dismissed it for failure to state a claim, plaintiff was given thirty days to file a second amended complaint curing the deficiencies. Plaintiff allowed the deadline to pass without filing an amended complaint or otherwise responding.

PROCEDURAL HISTORY

Plaintiff, a state inmate proceeding pro se under 42 U.S.C. § 1983, filed an amended complaint. On February 21, 2025, the court screened the first amended complaint under 28 U.S.C. § 1915A, dismissed it for failure to state a claim, and granted plaintiff thirty days to file a second amended complaint. Plaintiff did not file a second amended complaint or otherwise respond, so the magistrate judge recommended dismissal without prejudice and advised the parties of their opportunity to object.

DISPOSITION

other

CASES CITED

- Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998)
- Martinez v. Yést, 951 F.2d 1153 (9th Cir. 1991)

OPINION

(PC) Valenzuela v. Thorntona

PER CURIAM.

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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 MARIO A. VALENZUELA, No. 2:23-cv-02494-DAD-EFB (PC)

12 Plaintiff,

13 v. FINDINGS AND RECOMMENDATIONS

14 THORNTONA, et al., 15 Defendants. 16 Plaintiff, a state inmate, proceeds without counsel in
an action brought under 42 U.S.C. § 17 1983. This proceeding was referred to this court by Local
Rule 302 pursuant to 28 U.S.C. § 18 636(b)(1). 19 On February 21, 2025, the court screened
plaintiff's first amended complaint pursuant to 20 28 U.S.C. § 1915A. ECF No. 16. The court
dismissed the complaint for failure to state a claim 21 and granted plaintiff thirty days in which to
file a second amended complaint to cure the 22 deficiencies. Id. The screening order warned
plaintiff that failure to comply could result in a 23 recommendation that this action be dismissed.
24 The time for acting has now passed and plaintiff has not filed a second amended 25 complaint
or otherwise responded to the court's order. Thus, it appears that plaintiff is unable or 26 unwilling
to cure the defects in the complaint. 27 //// 28] Accordingly, it is RECOMMENDED that this
action be DISMISSED without prejudice 2 | for the reasons stated in the February 21, 2025
screening order. 3 These findings and recommendations are submitted to the United States District
Judge 4 | assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
days 5 || after being served with these findings and recommendations, any party may file written 6
|| objections with the court and serve a copy on all parties. Such a document should be captioned 7
|| "Objections to Magistrate Judge's Findings and Recommendations." Any response to the 8 ||
objections shall be served and filed within fourteen days after service of the objections. The 9 ||
parties are advised that failure to file objections within the specified time may waive the right to
10 || appeal the District Court's order. Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998);
Martinez 11 | v. Yést, 951 F.2d 1153 (9th Cir. 1991). Dated 13 || Dated: May 19, 2025 Lal lttiçl 7 □

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EDMUND F. BRENNAN

14 UNITED STATES MAGISTRATE JUDGE

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