

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
CAROLINA

Mr. Gary Nelson v. Ms. Small and Mr. Elder

Nelson v. Small · No. 0:26-cv-00113-DCC · Decided May 1, 2026

SUMMARY

The United States District Court for the District of South Carolina grants Plaintiff’s motion to proceed in forma pauperis and dismisses the action without prejudice and without issuance or service of process. The court declines to adopt the magistrate judge’s recommendation concerning disposition of the in forma pauperis motion but otherwise accepts the recommendation after finding no clear error.

CASE DETAILS

COURT	United States District Court for the District of South Carolina
WRITING FOR THE COURT	Donald C. Coggins, Jr.
JURISDICTION	United States District Court for the District of South Carolina
DECIDED	May 1, 2026
DOCKET	0:26-cv-00113-DCC
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report and Recommendation recommending dismissal without prejudice and without issuance and service of process. No objections were filed.
STANDARD OF REVIEW	In the absence of a timely objection, the district court reviews the Report and Recommendation for clear error on the face of the record. Specific objections require de novo review under 28 U.S.C. § 636(b).
PRECEDENTIAL VALUE	Unpublished district court order; precedential status is unknown.

TOPICS

- civil procedure
- pleadings

PRACTICE AREAS

- Civil procedure
- Federal courts
- Prisoner civil rights

QUESTIONS PRESENTED

1. What standard of review applies when a party does not object to a magistrate judge's Report and Recommendation?
2. Whether the court should grant Plaintiff's motion for leave to proceed in forma pauperis.
3. Whether the action should be dismissed without prejudice and without issuance and service of process.

HOLDINGS

1. When no timely objection is filed, the district court need only review the Report and Recommendation for clear error on the face of the record rather than conduct de novo review.
2. Plaintiff's motion for leave to proceed in forma pauperis should be granted.
3. The action was dismissed without prejudice and without issuance and service of process.

KEY QUOTATIONS

"in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." (416 F.3d at 315)

FACTUAL BACKGROUND

Plaintiff Gary Nelson filed a complaint and sought leave to proceed in forma pauperis. A magistrate judge recommended dismissal without prejudice and without issuance and service of process. Plaintiff did not file objections, and the Report was not returned as undeliverable.

PROCEDURAL HISTORY

Plaintiff filed a complaint and a motion for leave to proceed in forma pauperis. The matter was referred to Magistrate Judge Paige J. Gossett, who recommended dismissal without prejudice and without issuance and service of process. Plaintiff did not object. The district court granted leave to proceed in forma pauperis, declined to adopt the recommendation that the motion be terminated without a ruling, found no clear error in the remainder of the Report, and dismissed the action.

DISPOSITION

dismissed

CASES CITED

- Mathews v. Weber, 423 U.S. 261 (1976)
- Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005)

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