

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Eric Lee Hasselbrock v. John Scott Wilson

No. CV-25-08195-PCT-JJT (MTM), United States District Court for the District of Arizona (March 23, 2026)

SUMMARY

The United States District Court for the District of Arizona overruled Plaintiff Eric Lee Hasselbrock’s objections, adopted the magistrate judge’s Report and Recommendation, and dismissed the action without prejudice for failure to properly serve Defendant. The court also denied the motions for default and default judgment and denied the in forma pauperis application as moot.

CASE DETAILS

COURT	United States District Court for the District of Arizona
JURISDICTION	United States District Court for the District of Arizona
DECIDED	March 23, 2026
DOCKET	CV-25-08195-PCT-JJT (MTM)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff sought review of a magistrate judge's Report and Recommendation recommending dismissal without prejudice under Federal Rules of Civil Procedure 4(m) and 41(b). The district court construed Plaintiff's notice of appeal as a timely objection, overruled the objection, adopted the R&R, dismissed the action without prejudice, and denied the pending motions.
STANDARD OF REVIEW	The district court reviewed the magistrate judge's Report and Recommendation after construing Plaintiff's notice of appeal as an objection; it accepted the recommendation without further process after finding no error in the R&R.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- service of process
- default judgment
- default
- appellate procedure
- civil procedure

PRACTICE AREAS

- civil procedure
- prisoner civil rights
- appellate procedure

QUESTIONS PRESENTED

1. Whether Plaintiff's notice of appeal, filed one day after the objection deadline, should be construed as an objection to the magistrate judge's Report and Recommendation.
2. Whether Plaintiff established that Defendant had been properly served under the Federal Rules of Civil Procedure.
3. Whether dismissal without prejudice was proper under Rules 4(m) and 41(b).
4. Whether Plaintiff was entitled to default or default judgment despite the absence of completed service.

HOLDINGS

1. The court construed Plaintiff's notice of appeal as an objection to the Report and Recommendation and excused the one-day delay for good cause.
2. Plaintiff did not establish valid service because the process-server attempts were unsuccessful and service by certified mail was not an approved method under the Federal Rules of Civil Procedure.
3. Defendant could not be in default because service had never been completed; Plaintiff's Motion for Default and Motion for Entry of Default Judgment were therefore denied.
4. The complaint and action were dismissed without prejudice, and the magistrate judge's Report and Recommendation was adopted.

KEY QUOTATIONS

“service by certified mail is not an approved or acceptable method of service under the Federal Rules of Civil Procedure.” (at 2)

“Service never having been completed on Defendant, he cannot have defaulted.” (at 2)

FACTUAL BACKGROUND

Plaintiff attempted to serve Defendant through several process servers, but each attempt was unsuccessful. Plaintiff also sent the summons and complaint by certified mail, which the court held was not an acceptable method of service under the Federal Rules of Civil Procedure. Because service was never completed, Defendant had not defaulted.

PROCEDURAL HISTORY

Magistrate Judge Michael T. Morrissey recommended dismissal without prejudice because Plaintiff had not properly served Defendant. Plaintiff did not file a formal objection within the fourteen-day period but filed a notice of appeal one day later, which the district court construed as an objection and considered on the merits. The district court adopted the R&R, dismissed the complaint without prejudice, directed entry of judgment, and denied Plaintiff's motions for default, default judgment, and in forma pauperis status as moot.

DISPOSITION

dismissed

CASES CITED

- United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003)

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