

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
DAKOTA, SOUTHERN DIVISION

Estela Elizabeth Jeffcoat v. Brookings Housing & Redevelopment
Commission

Jeffcoat · No. 4:25-CV-04166-CCT · Decided December 15, 2025

SUMMARY

The United States District Court for the District of South Dakota denies Estela Elizabeth Jeffcoat’s motion for a protective order seeking to prevent the Brookings Housing & Redevelopment Commission from contacting her employer to verify her income. The court holds that the employment verification was not discovery subject to Federal Rule of Civil Procedure 26(c), and that Jeffcoat also failed to confer with the defendant and provide the required certification before filing the motion.

CASE DETAILS

COURT	United States District Court for the District of South Dakota, Southern Division
WRITING FOR THE COURT	Veronica L. Duffy
JURISDICTION	United States District Court for the District of South Dakota, Southern Division
DECIDED	December 15, 2025
DOCKET	4:25-CV-04166-CCT
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for a protective order to prevent the defendant housing authority from contacting her employer for periodic employment-verification inquiries. The motion was referred to the magistrate judge for determination.
STANDARD OF REVIEW	A trial court has significant discretion to grant or deny a protective order, and reversal ordinarily requires an abuse of discretion. A magistrate judge's order may be reconsidered by the district court if it is clearly erroneous or contrary to law.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

discovery dispute

civil procedure

civil rights

ada / disability

PRACTICE AREAS

civil procedure

housing assistance

disability discrimination

Fair Housing Act

Rehabilitation Act

QUESTIONS PRESENTED

1. Whether Federal Rule of Civil Procedure 26(c) authorized a protective order against the housing authority's periodic employment-verification inquiries when those inquiries were not discovery sought in the litigation.
2. Whether the motion should be denied because Jeffcoat did not confer in good faith with the defendant or provide the required certification before filing the motion.

HOLDINGS

1. Federal Rule of Civil Procedure 26(c) does not provide grounds for a protective order when the defendant has not sought discovery from the moving party and the challenged conduct consists of normal actions in an ongoing housing-assistance relationship rather than litigation discovery.
2. A motion for a protective order must be preceded by a good-faith conference with the opposing party, and the movant must certify that the conference occurred or was attempted; Jeffcoat's failure to do so independently required denial of the motion.

KEY QUOTATIONS

“A protective order under Fed. R. Civ. P. 26(c) is available to protect a party “from whom discovery is sought” from “annoyance, embarrassment, oppression, or undue burden or expense.”” (Discussion)

“Good cause appearing, it is hereby ORDERED that plaintiff’s motion for a protective order [Docket No. 17] is denied.” (Conclusion)

FACTUAL BACKGROUND

Jeffcoat was an ongoing recipient of federal housing assistance administered by Brookings Housing & Redevelopment Commission. The Commission periodically verified her income with her employer to determine her continued eligibility and the amount of her housing assistance. Jeffcoat sought to prevent those contacts through a protective order, although the Commission had not served her with discovery requests.

PROCEDURAL HISTORY

Jeffcoat filed a pro se complaint alleging that Brookings Housing & Redevelopment Commission violated the Fair Housing Act, the Rehabilitation Act, and Department of Housing and Urban Development regulations. While the action was pending, she moved for a protective order barring employment-verification contacts. The court denied the motion because the contacts were not discovery subject to Federal Rule of Civil Procedure 26(c), and because she did not confer in good faith with the defendant or submit the required certification.

DISPOSITION

other

CASES CITED

- General Dynamics Corp. v. Selb Manufacturing Co., 481 F.2d 1204, 1212 (8th Cir. 1973)
- Pansy v. Borough of Stroudsburg, 23 F.3d 772, 786 (3d Cir. 1994)
- United States v. Becerra, 73 F.4th 966, 972-73 (8th Cir. 2023)
- Thompson v. Nix, 897 F.2d 356, 357-58 (8th Cir. 1990)

OPINION

UNITED STATES DISTRICT COURT DISTRICT OF SOUTH DAKOTA SOUTHERN DIVISION ESTELA ELIZABETH JEFFCOAT, 4:25-CV-04166-CCT Plaintiff, vs. ORDER DENYING PLAINTIFF'S MOTION FOR A PROTECTIVE ORDER DOCKET NO. 17 BROOKINGS HOUSING & REDEVELOPMENT COMMISSION, Defendant. INTRODUCTION Plaintiff Estela Elizabeth Jeffcoat filed a pro se complaint in this matter against defendant Brookings Housing & Redevelopment Commission (BHRC) alleging BHRC is violating her rights under the Fair Housing Act because BHRC is not allowing her to deduct from her income certain allowed deductions.

Docket No. 1 at 1. She also accuses BHRC of discriminating against her on the basis of her disability in violation of the Rehabilitation Act. Id. at 2. Finally, Ms. Jeffcoat accuses BHRC of violating regulations of the United States Department of Housing and Urban Development. Id. DISCUSSION Ms. Jeffcoat filed a motion seeking a protective order that would prohibit BHRC from contacting her employer with periodic employment verification inquiries.

Docket No. 17. The district court referred this motion to this magistrate judge for determination. Docket No. 26. Federal Rule of Civil Procedure 26(c) governs the granting of a protective order by the court, as follows: (c) Protective Orders.

(1) In General. A party or any person from whom discovery is sought may move for a protective order in the court where the action is pending-Bor as an alternative on matters relating to a deposition, in the court for the district where the deposition will be taken.

The motion must include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action. The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (A) forbidding the disclosure or discovery; (B) specifying terms, including time and place, or the allocation of expenses, for the disclosure or discovery; (C) prescribing a discovery method other than the one selected by the party seeking discovery; (D) forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters; (E) designating the persons who may be

present while the discovery is conducted; (F) requiring that a deposition be sealed and opened only on court order; (G) requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way; and (H) requiring that the parties simultaneously file specified documents or information in sealed envelopes, to be opened as the court directs.

(2) Ordering Discovery. If a motion for a protective order is wholly or partly denied, the court may, on just terms, order that any party or person provide or permit discovery. (3) Awarding Expenses. Rule 37(a)(5) applies to the award of expenses. See Fed R. Civ. P. 26(c).

The trial court has significant discretion in either granting or denying a protective order, and an abuse of that discretion would be cause for reversal. @ General Dynamics Corp. v. Selb Mfg. Co., 481 F.2d 1204, 1212 (8th Cir. 1973).

Under Rule 26(c), a court may grant a protective order only upon a showing of good cause by the moving party. Id. The movant must articulate a particular and specific demonstration of fact, as distinguished from stereotyped and conclusory statements. @ Id. (additional citation and quotation marks omitted); see also Pansy v. Borough of Stroudsburg, 23 F.3d 772, 786 (3d Cir.

1994) (A Good cause is established on a showing that disclosure will work a clearly defined and serious injury to the party seeking disclosure. The injury must be shown with specificity. Broad allegations of harm, unsubstantiated by specific examples or articulated reasoning, do not support a good cause showing. @) (additional citations and quotation marks omitted).

The court must also consider the relative hardship to the non-moving party should the protective order be granted. @ General Dynamics Corp., 481 F.2d at 1212 (additional citation omitted). Here, Ms. Jeffcoat is an ongoing recipient of federal housing aid which is administered through BHRC.

The protective order she seeks is not related to discovery—BHRC has not served Ms. Jeffcoat with any discovery requests from which Ms. Jeffcoat seeks protection. See Docket No. 17. Instead, as BHRC explains in its brief in response to the motion for a protective order, one of its statutory duties is to periodically verify Ms. Jeffcoat's income with her employer to ensure she continues to qualify for aid and to determine the amount of that housing assistance.

See Docket No. 32 (citing 24 C.F.R. § 5.609(c)(3)(i) & (ii)).¹ BHRC asserts that this information it has sought in the past (and will continue to have to seek in the future), is not discovery and it is not related to any of Ms. Jeffcoat's claims in this matter. Id. at 2. This court agrees with defendant. A protective order under Fed. R. Civ. P. 26(c) is available to protect a party "from whom discovery is sought" from "annoyance, embarrassment, oppression, or undue burden or expense." See Fed.

R. Civ. P. 26(c)(1). BHRC has not sought discovery from Ms. Jeffcoat, so Rule 26(c) does not provide grounds for issuing a protective order. Furthermore, when the parties to a lawsuit have an

ongoing relationship (as Ms. Jeffcoat and BHRC do here), the parties are allowed to continue to take normal actions that are part of that ongoing relationship. But there's another reason Ms. Jeffcoat's motion must be denied.

Rule 26(c) requires that, before she files a motion for a protective order, she must first confer with BHRC in good faith to try to resolve the discovery dispute. See Fed. R. Civ. P. 26(c). If that conference between the parties does not resolve 1 That regulation states in part that a program administrator for housing assistance must calculate the applicant's annual income through use of third- party verification.

See 24 C.F.R. § 5.609(c)(3)(ii). This means BHRC is required to verify Ms. Jeffcoat's annual income through her employer (the third-party). the dispute, Ms. Jeffcoat must file as part of her motion a certification attesting that she engaged in this good faith conference with BHRC before filing her motion. Id. Ms. Jeffcoat never states in any of her pleadings in support of her motion that she fulfilled this obligation.

See Docket No. 17. Nor did she file a certification attesting that she satisfied this requirement. Id. This requirement that a party must confer with the opposing counsel before filing a discovery motion is a requirement that applies to all discovery motions. See Fed. R. Civ. P. 37(a)(1). See also DSD LR 37.1. Ms. Jeffcoat is hereby advised to comply with this requirement prior to filing any future discovery motions.

CONCLUSION Good cause appearing, it is hereby ORDERED that plaintiff's motion for a protective order [Docket No. 17] is denied. NOTICE OF RIGHT TO APPEAL Pursuant to 28 U.S.C. § 636(b)(1)(A), any party may seek reconsideration of this order before the district court upon a showing that the order is clearly erroneous or contrary to law.

The parties have fourteen (14) days after service of this order to file written objections unless an extension of time for good cause is obtained. FED. R. CIV. P. 6(b)(1), 72(a). Failure to file timely objections will result in the waiver of the right to appeal this ruling. *United States v. Becerra*, 73 F.4th 966, 972-73 (8th Cir. 2023). Objections must be specific in order to require review by the district court.

Thompson v. Nix, 897 F.2d 356, 357-58 (8th Cir. 1990). DATED this 15th day of December, 2025. BY THE COURT: Varrim 2. Daffy VERONICA L. DUFFY United States Magistrate Judge