

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

Michael Gardner v. Shane Peacock, Kim Johnson, and Carrie
Dehewen

Gardner · No. 5:26-cv-00120 · Decided May 5, 2026

SUMMARY

The court adopts a magistrate judge’s proposed findings and recommendation after no objections were filed. It denies the petitioner’s applications to proceed without prepayment of fees or costs, dismisses the complaint and amended complaint, and directs that the matter be dismissed from the docket.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia
WRITING FOR THE COURT	W. Volk
JURISDICTION	United States District Court for the Southern District of West Virginia
DECIDED	May 5, 2026
DOCKET	5:26-cv-00120
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's proposed findings and recommendation concerning the petitioner's applications to proceed without prepayment of fees or costs and his original and amended complaints. No objections were filed.
STANDARD OF REVIEW	Absent specific objections, the district court need not conduct de novo review of the magistrate judge's factual or legal conclusions. General and conclusory objections also do not require de novo review. No objections were filed in this case.
PRECEDENTIAL VALUE	unknown
PARTIES	Michael Gardner v. Shane Peacock, Kim Johnson, Carrie Dehewen

TOPICS

civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court was required to conduct de novo review of the magistrate judge's PF&R when no objections were filed.
2. Whether the court should adopt the PF&R, deny the applications to proceed without prepayment of fees or costs, dismiss the original and amended complaints, and remove the matter from the docket.

HOLDINGS

1. The district court was not required to conduct de novo or other review of the portions of the PF&R to which no objections were made, and the petitioner's failure to file timely objections waived de novo review and the right to appeal those portions.
2. The court adopted the PF&R, denied the original and amended applications to proceed without prepayment of fees or costs, dismissed the original and amended complaints, and dismissed the matter.

KEY QUOTATIONS

“Failure to file timely objections constitutes a waiver of de novo review and the Petitioner’s right to appeal the Court’s order.”

“Accordingly, the Court ADOPTS the PF&R [ECF 8], DENIES the Application to Proceed Without Prepayment of Fees or Costs [ECF 1] and Amended Application to Proceed Without Prepayment of Fees or Costs [ECF 6], DISMISSES the Complaint [ECF 2] and Amended Complaint [ECF 7], and DISMISSES the matter.”

FACTUAL BACKGROUND

Michael Gardner filed an application to proceed without prepayment of fees or costs and a complaint, then filed amended versions of both documents. The magistrate judge recommended denying the fee applications and dismissing the original and amended complaints. Gardner filed no objections to the PF&R by the March 26, 2026 deadline.

PROCEDURAL HISTORY

Gardner filed an application to proceed without prepayment of fees or costs and a complaint on February 18, 2026, followed by amended filings on March 4, 2026. The matter was referred to Magistrate Judge Omar J. Aboulhosn, who issued a PF&R recommending denial of the fee applications and dismissal of the complaints. After the objection deadline passed without objections, the district court adopted the PF&R, denied both applications, dismissed both complaints, and dismissed the matter from the docket.

DISPOSITION

dismissed

CASES CITED

- Thomas v. Arn, 474 U.S. 140 (1985)
- United States v. De Leon-Ramirez, 925 F.3d 177, 181 (4th Cir. 2019)
- Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989)
- Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982)

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