

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
NORTH CAROLINA

Timothy Omar Hankins v. Wells Fargo Bank, et al.

Hankins · No. 7:24-CV-01112-M · Decided January 5, 2026

SUMMARY

The United States District Court for the Eastern District of North Carolina adopts three magistrate judge recommendations and grants motions to dismiss claims against the Town of Garner, Wake County, and the City of Raleigh. The court holds that Plaintiff failed to properly serve the municipalities under Federal Rule of Civil Procedure 4(j)(2) and North Carolina law by serving their attorneys rather than authorized executive officers. The claims against the three municipal defendants are dismissed for insufficient service of process and lack of personal jurisdiction.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of North Carolina                                                                                                                                                                                                                                                                                                  |
| WRITING FOR THE COURT | Richard Myers                                                                                                                                                                                                                                                                                                                                                            |
| JURISDICTION          | United States District Court for the Eastern District of North Carolina                                                                                                                                                                                                                                                                                                  |
| DECIDED               | January 5, 2026                                                                                                                                                                                                                                                                                                                                                          |
| DOCKET                | 7:24-CV-01112-M                                                                                                                                                                                                                                                                                                                                                          |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                                                |
| PROCEDURAL POSTURE    | The district court reviewed three magistrate judge Memoranda and Recommendations recommending dismissal of Plaintiff's claims against the Town of Garner, Wake County, and the City of Raleigh for insufficient service of process and lack of personal jurisdiction.                                                                                                    |
| STANDARD OF REVIEW    | The court conducts de novo review of portions of a magistrate judge's recommendation to which a specific and timely objection is made. Absent a specific and timely objection, the court reviews for clear error. The court conducted de novo review out of an abundance of caution despite the absence of specific and timely objections to two of the recommendations. |
| PRECEDENTIAL VALUE    | unknown                                                                                                                                                                                                                                                                                                                                                                  |
| PARTIES               | Timothy Omar Hankins v. Wells Fargo Bank, et al., Town of Garner, Wake County, City of Raleigh                                                                                                                                                                                                                                                                           |

## TOPICS

service of process

personal jurisdiction

motions to dismiss

municipal law

civil procedure

## PRACTICE AREAS

civil procedure

federal jurisdiction

municipal law

## QUESTIONS PRESENTED

1. Whether Plaintiff properly served the Town of Garner, Wake County, and the City of Raleigh under Federal Rule of Civil Procedure 4(j)(2) or applicable North Carolina law.
2. Whether the failure to properly serve the municipal defendants deprived the district court of personal jurisdiction over them.
3. Whether the magistrate judge's recommendations should be adopted after review of Plaintiff's objections.

## HOLDINGS

1. Plaintiff failed to properly serve the Town of Garner, Wake County, and the City of Raleigh because he served or attempted to serve their attorneys rather than the municipalities' chief executive officers or another person authorized by Federal Rule of Civil Procedure 4(j)(2) or North Carolina law.
2. The court lacked personal jurisdiction over the Town of Garner, Wake County, and the City of Raleigh because Plaintiff failed to effect proper service of process.
3. The court overruled Plaintiff's objections and adopted in full the rationales and conclusions of the three Memoranda and Recommendations.

## KEY QUOTATIONS

*“Rule 4(j)(2) of the Federal Rules of Civil Procedure governs service upon municipalities and requires service to be effected by “delivering a copy of the summons and of the complaint to [the municipality’s] chief executive officer” or by serving the municipality in accordance with state law.” (DE 188 at 2; DE 190 at 2; DE 191 at 2)*

*“Plaintiff failed to properly serve Garner, Wake County, and Raleigh. Accordingly, the court lacks personal jurisdiction over Garner, Wake County, and Raleigh.” (DE 188 at 3; DE 190 at 3; DE 191 at 3)*

## FACTUAL BACKGROUND

Plaintiff attempted to serve the Town of Garner by certified mail addressed to its attorney, the Town of Raleigh by certified mail addressed to its attorney, and Wake County by certified mail addressed to the county attorney. None of the municipalities was served through its chief executive officer or through a method authorized by North Carolina law. The district court concluded that Plaintiff therefore failed to properly serve Garner, Wake County, and Raleigh.

## PROCEDURAL HISTORY

Magistrate Judge Kimberly A. Swank recommended dismissal of the claims against Garner, Wake County, and Raleigh. Plaintiff filed timely objections to the Garner recommendation, but did not file specific and timely objections to the recommendations concerning Wake County and Raleigh after an earlier objection document was stricken. The district court nevertheless conducted de novo review because Plaintiff was proceeding pro se, overruled the objections, adopted the three recommendations in full, and granted the municipal defendants' motions to dismiss.

#### DISPOSITION

dismissed

#### CASES CITED

- Mathews v. Weber, 423 U.S. 261, 271 (1976)
- Diamond v. Colonial Life & Accident Insurance Co., 416 F.3d 310, 315 (4th Cir. 2005)

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