

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
MISSISSIPPI, NORTHERN DIVISION

Kimberly Monique Ross v. Captain Stephanie Horne

Ross · No. 3:25-CV-357-KHJ-MTP · Decided January 5, 2026

SUMMARY

The United States District Court for the Southern District of Mississippi adopts a magistrate judge’s Report and Recommendation, grants the defendant’s motion to dismiss, and denies the plaintiff’s motions for relief and an expedited evidentiary hearing. The dismissal is based on the First Amended Complaint’s failure to establish subject-matter jurisdiction, but the plaintiff is granted 14 days to seek leave to amend.

CASE DETAILS

COURT	United States District Court for the Southern District of Mississippi, Northern Division
JURISDICTION	United States District Court for the Southern District of Mississippi, Northern Division
DECIDED	January 5, 2026
DOCKET	3:25-CV-357-KHJ-MTP
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed and adopted a magistrate judge's Report and Recommendation recommending dismissal of the First Amended Complaint for lack of subject matter jurisdiction, denial of Plaintiff's motion for relief and motion for an expedited evidentiary hearing, and an opportunity for Plaintiff to seek leave to amend.
STANDARD OF REVIEW	When no party timely objects to a magistrate judge's report and recommendation, the district court reviews for clear error, abuse of discretion, and whether the recommendation is contrary to law.
PRECEDENTIAL VALUE	unknown

TOPICS

- subject matter jurisdiction
- motions to dismiss
- motion to amend
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court should adopt the magistrate judge's Report and Recommendation when no party timely objected.
2. Whether the First Amended Complaint should be dismissed for lack of subject matter jurisdiction because it failed to establish diversity or federal-question jurisdiction.
3. Whether Plaintiff's motion for relief from a state-court judgment and motion for an expedited evidentiary hearing should be denied.

HOLDINGS

1. When no party timely objects to a magistrate judge's report and recommendation, the district court applies the clearly erroneous, abuse-of-discretion, and contrary-to-law standard rather than de novo review.
2. The First Amended Complaint failed to establish diversity or federal-question jurisdiction and therefore warranted dismissal for lack of subject matter jurisdiction.
3. Ross's motion for relief was properly denied because she improperly sought relief in the federal action from a state-court judgment.
4. The motion for an expedited evidentiary hearing was properly denied because the court could not address the merits of Ross's claim unless and until it had subject matter jurisdiction.

KEY QUOTATIONS

“When no party timely objects, the Court applies “the clearly erroneous, abuse of discretion and contrary to law standard of review.”” (Order)

FACTUAL BACKGROUND

Plaintiff Kimberly Monique Ross filed a First Amended Complaint against Captain Stephanie Horne. The pleading did not establish either diversity jurisdiction or federal-question jurisdiction. Ross also sought relief in federal court from a state-court judgment and requested an expedited evidentiary hearing before the federal court had determined that it possessed subject matter jurisdiction.

PROCEDURAL HISTORY

Magistrate Judge Michael T. Parker recommended granting Defendant's motion to dismiss because the First Amended Complaint did not establish diversity or federal-question jurisdiction. The Report also recommended denying Plaintiff's motion for relief, which improperly sought relief from a state-court judgment in federal court, and denying an expedited evidentiary hearing because the court could not reach the merits without subject matter jurisdiction. No party timely objected, so the district court applied clear-error, abuse-of-discretion, and contrary-to-law review, adopted the Report, granted the motion to dismiss, denied the other motions, and allowed Plaintiff 14 days to seek leave to amend.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand. Ross may seek leave to amend within 14 days of receiving the Order and must attach a proposed amended complaint in accordance with Local Uniform Civil Rule 15. If she does not properly seek leave within 14 days, the court will enter final judgment dismissing the case without further notice.

CASES CITED

- 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam)
- 995 F.2d 37, 40 (5th Cir. 1993) (per curiam)

OPINION

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF MISSISSIPPI NORTHERN DIVISION KIMBERLY MONIQUE ROSS PLAINTIFF V. CIVIL ACTION NO. 3:25-CV-357-KHJ-MTP CAPTAIN STEPHANIE HORNE DEFENDANT ORDER Before the Court is the [27] Report and Recommendation of United States Magistrate Judge Michael T. Parker.

The [27] Report recommends granting Defendant Stephanie Horne's ("Horne")¹ [16] Motion to Dismiss but permitting Plaintiff Kimberly Monique Ross ("Ross") an opportunity to seek leave to amend within 14 days of the Court's order. R. & R. [27] at 9.

The [27] Report also recommends denying Ross's [19] Motion for Relief and [24] Motion for Expedited Evidentiary Hearing. Written objections to the [27] Report were due by December 31, 2025.. at 10. And the [27] Report notified the parties that failure to file written objections by that date would bar them from attacking on appeal unobjected to proposed factual findings and legal conclusions accepted by the District Court.

No party objected, and the time to do so has passed. The Court must review de novo a magistrate judge's report only when a party objects to the report within 14 days of being served with a copy. 28 U.S.C. 1 Although the [13] First Amended Complaint, [27] Report, and other filings read "Captain Stephanie Horne," Horne's last name is spelled "Horn." [16] at 1.

For consistency, the Court does not correct Horne's name in this Order. § 636(b)(1). When no party timely objects, the Court applies "the clearly erroneous, abuse of discretion and contrary to law standard of review.", 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam) (citation modified). And the Court need not "reiterate the findings and conclusions of the magistrate judge.", 995 F.2d 37, 40 (5th Cir.

1993) (per curiam). The [27] Report concludes that this case should be dismissed for lack of subject matter jurisdiction because the [13] First Amended Complaint fails to establish diversity or federal question jurisdiction.

[27] at 5–6, 7. But because Ross’s original [1] Complaint suggests Ross could state a basis for federal question jurisdiction, the [27] Report recommends allowing Ross 14 days to seek leave to amend her [13] First Amended Complaint to state a basis for jurisdiction. at 7–8. Further, the [27] Report recommends denying Ross’s [19] Motion for Relief because Ross improperly seeks relief in this Court from a state court judgment. at 8–9.

And the [27] Report recommends denying Ross’s [24] Motion for Expedited Evidentiary Hearing because the Court may not address the merits of Ross’s claim unless and until it has subject matter jurisdiction. at 9. The Court finds that the [27] Report is not clearly erroneous, an abuse of discretion, or contrary to law. So the Court adopts the [27] Report as its opinion.

For the reasons stated above, the Court ADOPTS the [27] Report, GRANTS the [16] Motion, and DENIES the [19, 24] Motions. But the Court will allow Ross to seek leave to amend within 14 days of receipt of this Order. If Ross seeks leave to amend, she must attach a copy of her proposed amended complaint to her motion in accordance with Local Uniform Civil Rule 15.

If Ross does not properly seek leave to amend within 14 days, the Court will enter a final judgment, dismissing the case without further notice. SO ORDERED, this 5th day of January, 2026. s/ UNITED STATES DISTRICT JUDGE