

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)

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