

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF  
NEW YORK

Calvin Reed v. P.O. Andre Logan, et al.

Reed · No. 22 Civ. 10446 (JPC) (BCM) · Decided November 25, 2025

SUMMARY

The United States District Court for the Southern District of New York adopts a magistrate judge’s Report and Recommendation denying Defendants’ motion to dismiss for lack of prosecution and failure to comply with discovery and scheduling orders. The Court warns Plaintiff that continued noncompliance may result in sanctions, including dismissal with prejudice, and directs Defendants to file summary judgment motions within thirty days.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Southern District of New York                                                                                                                                                                                                                                                                                                                                                  |
| WRITING FOR THE COURT | John P. Cronan                                                                                                                                                                                                                                                                                                                                                                                                      |
| JURISDICTION          | United States District Court for the Southern District of New York                                                                                                                                                                                                                                                                                                                                                  |
| DECIDED               | November 25, 2025                                                                                                                                                                                                                                                                                                                                                                                                   |
| DOCKET                | 22 Civ. 10446 (JPC) (BCM)                                                                                                                                                                                                                                                                                                                                                                                           |
| DISPOSITION           | approved                                                                                                                                                                                                                                                                                                                                                                                                            |
| PROCEDURAL POSTURE    | The district court reviewed and adopted a magistrate judge's Report and Recommendation recommending denial of Defendants' motion to dismiss under Federal Rules of Civil Procedure 41(b) and 16(f) for lack of prosecution and failure to comply with discovery and scheduling orders.                                                                                                                              |
| STANDARD OF REVIEW    | A timely objection to a magistrate judge's report and recommendation requires de novo review of the contested portion under 28 U.S.C. § 636(b)(1)(C), Federal Rule of Civil Procedure 72(b)(3), and United States v. Male Juvenile. In the absence of objections, the district court ordinarily reviews for clear error; here, the court reviewed the Report and Recommendation de novo notwithstanding the waiver. |
| PRECEDENTIAL VALUE    | unpublished district court order                                                                                                                                                                                                                                                                                                                                                                                    |
| PARTIES               | P.O. Andre Logan, et al. v. Calvin Reed                                                                                                                                                                                                                                                                                                                                                                             |

TOPICS

motions to dismiss

sanctions

discovery dispute

civil procedure

civil rights

## PRACTICE AREAS

civil rights

civil procedure

prisoner civil rights

## QUESTIONS PRESENTED

1. Whether the parties waived their right to object to the magistrate judge's Report and Recommendation by failing to file timely objections.
2. Whether the district court should adopt the Report and Recommendation recommending denial of Defendants' motion to dismiss under Rules 41(b) and 16(f) for lack of prosecution and failure to comply with discovery and scheduling orders.
3. Whether the district court should warn Plaintiff that continued noncompliance could result in sanctions, including dismissal with prejudice under Rule 41(b).

## HOLDINGS

1. Because neither party filed timely objections after the objection period expired, both parties waived the right to object to the Report and Recommendation and forfeited appellate review based on objections.
2. The district court adopted the Report and Recommendation in its entirety and denied Defendants' motion to dismiss under Rules 41(b) and 16(f).
3. The court warned that if Plaintiff's failure to comply with court orders persists, it may impose sanctions, including dismissal with prejudice under Rule 41(b).

## KEY QUOTATIONS

*"The parties therefore have waived the right to object to the Report and Recommendation."*

*"Notwithstanding this waiver, the Court has reviewed the Report and Recommendation de novo, finds it to be well reasoned and its conclusions well founded, and adopts it in its entirety."*

*"Defendants must file their motions for summary judgment within thirty days of this Order."*

## FACTUAL BACKGROUND

Pro se Plaintiff Calvin Reed alleges that several New York State parole officers assaulted him without provocation on September 13, 2019. During the litigation, Reed repeatedly failed to comply with court orders, including by missing multiple conferences and delaying discovery production. Defendants sought dismissal under Rules 41(b) and 16(f), but the magistrate judge recommended denial of that motion.

## PROCEDURAL HISTORY

Plaintiff filed a pro se civil-rights action alleging that New York State parole officers assaulted him. Defendants moved to dismiss for lack of prosecution and failure to comply with discovery and scheduling orders. Magistrate Judge Barbara C. Moses recommended denying the motion. Neither party timely objected, and the district court

nevertheless conducted de novo review, adopted the Report and Recommendation in its entirety, denied the motion to dismiss, and directed Defendants to file summary-judgment motions within thirty days.

DISPOSITION

approved

CASES CITED

- United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997)
- Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003)
- Frank v. Johnson, 968 F.2d 298, 300 (2d Cir. 1992)
- Lucas v. Miles, 84 F.3d 532, 534-35 (2d Cir. 1996)

OPINION

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK -----  
----- X CALVIN REED,: Plaintiff,: -v-: 22 Civ. 10446  
(JPC) (BCM) P.O. ANDRE LOGAN, et al.,: ORDER ADOPTING: REPORT AND Defendants.:  
RECOMMENDATION ----- X JOHN P.  
CRONAN, United States District Judge: In this action, pro se Plaintiff Calvin Reed alleges that, on September 13, 2019, several New York State parole officers assaulted him without provocation.

On October 28, 2025, the Honorable Barbara C. Moses, to whom this case has been referred for general supervision of pretrial proceedings and the issuance of recommendations on dispositive motions, issued a Report and Recommendation, recommending that the undersigned deny Defendants’ motion to dismiss this action pursuant to Federal Rules of Civil Procedure 41(b) and 16(f) for lack of prosecution and failure to comply with discovery and scheduling orders.

Dkt. 84 (“R&R”). A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge” in a report and recommendation. 28 U.S.C. § 636(b)(1)(C). If a party submits a timely objection to any part of the magistrate judge’s disposition, the district court will conduct a de novo review of the contested section.

Fed. R. Civ. P. 72(b)(3); see also United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997). If no objections are made, a district court reviews the report and recommendation for clear error. See, e.g., Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

The Report and Recommendation advised that from service of the Report and Recommendation, Defendants and Reed had fourteen days and seventeen days, respectively, to file any objections, and warned that failure to timely file such objections would result in waiver of any right to object and preclude appellate review. R&R at 17; see Fed. R. Civ. P. 6(d) (adding three days to “[w]hen a party must act... after being served” if service is made by mail).

The Report and Recommendation was electronically filed on October 28, 2025, and was mailed to Reed the following day. On November 18, 2025, this Court denied Reed's request for an extension of time to file objections. Dkt. 86.

The time for making any objections has now passed and no objections have been filed by either party. The parties therefore have waived the right to object to the Report and Recommendation. See *Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992). Notwithstanding this waiver, the Court has reviewed the Report and Recommendation de novo, finds it to be well reasoned and its conclusions well founded, and adopts it in its entirety.

In adopting the Report and Recommendation and denying Defendants' motion to dismiss, the Court should not be viewed as expressing approval of Reed's conduct during this litigation. To the contrary, the Court is highly troubled by Reed's repeated non-compliance with Judge Moses's orders, including by his absence at multiple court conferences and delayed production of discovery.

Reed is put on notice that if his failure to comply with the Court's orders persists, the Court may still issue sanctions against him going forward, including dismissal of this action with prejudice under Rule 41(b). See *Lucas v. Miles*, 84 F.3d 532, 534-35 (2d Cir. 1996) ("Rule 41(b) of the Federal Rules of Civil Procedure authorizes the district court to dismiss an action when a plaintiff fails to comply with any order of the court.").

Defendants must file their motions for summary judgment within thirty days of this Order. The Clerk of Court is respectfully directed to terminate Docket Number 76. SO ORDERED. Wf...  
Dated: November 25, 2025 ° New York, New York JOHN P. CRONAN United States District Judge