

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

Jay’len D. Bell, et al. v. John B. McCuskey

Bell v. McCuskey · No. 2:25-cv-00761 · Decided February 11, 2026

SUMMARY

The United States District Court for the Southern District of West Virginia adopts a magistrate judge’s Proposed Findings and Recommendation and dismisses without prejudice a petition for writ of habeas corpus. The court treats the plaintiff’s supplemental filing as a general objection, finds that it does not warrant de novo review, and directs that the civil action be removed from the docket.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia
JURISDICTION	United States District Court for the Southern District of West Virginia
DECIDED	February 11, 2026
DOCKET	2:25-cv-00761
DISPOSITION	dismissed
PROCEDURAL POSTURE	A district court reviewed a magistrate judge’s proposed findings and recommendation in a federal habeas action. The petitioner filed a general objection, and the court dismissed the petition and civil action without prejudice.
STANDARD OF REVIEW	Under 28 U.S.C. § 636(b)(1)(C) and Federal Rule of Civil Procedure 72(b)(3), the district court conducts de novo review of portions of a magistrate judge’s proposed findings or recommendations to which specific objection is made. General objections do not trigger de novo review and may waive the objection.
PRECEDENTIAL VALUE	Unpublished district court memorandum opinion and order; precedential status is unknown.
PARTIES	Jay’len D. Bell, et al. v. John B. McCuskey

TOPICS

- federal habeas corpus
- post-conviction relief
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the petitioner's general objection to the magistrate judge's proposed findings and recommendation required de novo review under 28 U.S.C. § 636(b)(1)(C) and Federal Rule of Civil Procedure 72(b)(3).
2. Whether the petition for a writ of habeas corpus and the civil action should be dismissed without prejudice.

HOLDINGS

1. A general objection that does not identify specific portions of the proposed findings and recommendation or the alleged errors does not satisfy 28 U.S.C. § 636(b)(1)(C) or Federal Rule of Civil Procedure 72(b), and therefore does not require de novo review.
2. The petition for a writ of habeas corpus and the civil action were dismissed without prejudice.

FACTUAL BACKGROUND

The petitioner filed a petition for a writ of habeas corpus. After the magistrate judge recommended dismissal without prejudice, the petitioner submitted a supplemental filing that did not identify specific objections or alleged errors in the proposed findings and recommendation.

PROCEDURAL HISTORY

The action was referred to Magistrate Judge Dwane L. Tinsley under 28 U.S.C. § 636 for proposed findings and recommendations. On January 14, 2026, the magistrate judge recommended dismissal without prejudice. The petitioner filed a supplemental filing treated as a general objection, but made no specific objections identifying alleged errors. The district court declined de novo review, adopted the proposed findings and recommendation, dismissed the habeas petition and civil action without prejudice, and directed that the case be removed from the docket.

DISPOSITION

dismissed

CASES CITED

- Veney v. Astrue, 539 F. Supp. 2d 841, 845 (W.D. Va. 2008)
- United States v. Midgett, 478 F.3d 616, 622 (4th Cir. 2007)
- Howard's Yellow Cabs, Inc. v. United States, 987 F. Supp. 469, 474 (W.D.N.C. 1997)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA CHARLESTON DIVISION JAY'LEN D. BELL, et al., Petitioners, v. CIVIL ACTION

NO. 2:25-cv-00761 JOHN B. MCCUSKEY, Respondent. MEMORANDUM OPINION AND ORDER This action was referred to the Honorable Dwane L. Tinsley for submission of proposed findings of fact and recommendations for disposition pursuant to 28 U.S.C. § 636.

On January 14, 2026, Judge Tinsley submitted his Proposed Findings & Recommendation (PF&R), [ECF No. 6], recommending that the court DISMISS without prejudice the Petition for Writ of Habeas Corpus, [ECF No. 1], and this civil action from the court's docket.

The plaintiff filed a Supplemental Filing [ECF No. 7], which the court will treat as a general objection to Judge Tinsley's PF&R. No other objections were filed by the parties. A district court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C) (emphasis added); see Fed.

R. Civ. P. 72(b)(3). Failure to file specific objections pursuant to 28 U.S.C. § 636(b)(1)(C)... may be construed by any reviewing court as a waiver of such objection." *Veney v. Astrue*, 539 F. Supp. 2d 841, 845 (W.D. Va. 2008); see *United States v. Midgette*, 478 F.3d 616, 622 (4th Cir. 2007) ("[T]o preserve for appeal an issue in a magistrate judge's report, a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection.").

General objections do not meet the requirements set forth in 28 U.S.C. § 636(b)(1)(C) or Rule 72(b), and, therefore, constitute a waiver of de novo review. See *Howard's Yellow Cabs, Inc. v. United States*, 987 F. Supp. 469, 474 (W.D. N.C. 1997).

The PF&R submitted by Judge Tinsley gave notice to the parties had a period of time from the filing of the PF&R "within which to file with the Clerk of this Court, specific written objections, identifying the portions of the [PF&R] to which objection is made, and the basis of such objection." [ECF No. 6, at 6]. Despite this guidance, the plaintiff's Supplemental Filing fails to make specific objections or identify any alleged errors.

Therefore, the court FINDS that a de novo review of the PF&R is not required. The court accepts and incorporates herein the PF&R and orders judgment consistent therewith. The court DISMISSES without prejudice the Petition for Writ of Habeas Corpus, [ECF No. 1], and this civil action and DIRECTS that this action be removed from the docket.

The court DIRECTS the Clerk to send a copy of this Order to counsel of record and any unrepresented party. ENTER: February 11, 2026 pe G ow STATES DISTRICT JUDGE