

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
NORTH CAROLINA

Alexander v. Jimenez and Hill-Kearse

No. 1:26-cv-89 (M.D.N.C. May 18, 2026) · No. 1:26-cv-89 · Decided May 18, 2026

SUMMARY

The United States District Court for the Middle District of North Carolina adopts a magistrate judge’s recommendation to dismiss Joseph Alexander’s action for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii). The court dismisses the case without prejudice because the plaintiff’s address was insufficient for service and he filed no objections to the recommendation.

CASE DETAILS

COURT	United States District Court for the Middle District of North Carolina
WRITING FOR THE COURT	Lindsey A. Freeman
JURISDICTION	United States District Court for the Middle District of North Carolina
DECIDED	May 18, 2026
DOCKET	1:26-cv-89
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's recommendation to dismiss the pro se complaint for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii). The plaintiff did not receive the recommendation because it was returned as undeliverable, did not provide an updated address, and filed no objections.
STANDARD OF REVIEW	When no timely objection is filed to a magistrate judge's recommendation, the district court need only determine whether there is clear error on the face of the record rather than conduct de novo review.
PRECEDENTIAL VALUE	unpublished

TOPICS

- motions to dismiss
- civil procedure
- section 1983

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court was required to conduct de novo review of the magistrate judge's recommendation when the plaintiff filed no timely objections.
2. Whether the magistrate judge's recommendation should be adopted and the action dismissed without prejudice for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii).

HOLDINGS

1. When no timely objection is filed, the district court need not conduct a de novo determination and need only satisfy itself that there is no clear error on the face of the record before accepting the recommendation.
2. The action was properly dismissed without prejudice under 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted.

KEY QUOTATIONS

“must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”

FACTUAL BACKGROUND

The plaintiff filed a civil action against Sergio Jimenez and Dawn Hill-Kearse. The magistrate judge recommended dismissal for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii). The recommendation was returned by the Postal Service as undeliverable, and the plaintiff did not provide an updated address or file objections.

PROCEDURAL HISTORY

The magistrate judge filed a recommendation on March 25, 2026, recommending dismissal under 28 U.S.C. § 1915(e)(2)(B)(ii). The Clerk attempted service at the plaintiff's address of record, but the mailing was returned as undeliverable. Because the plaintiff did not update his address or file objections, the district court reviewed the recommendation for clear error, adopted it in full, and dismissed the action without prejudice.

DISPOSITION

dismissed

CASES CITED

- *Diamond v. Colonial Life & Accident Insurance Co.*, 416 F.3d 310, 315 (4th Cir. 2005)

OPINION

ALEXANDER
PER CURIAM.
IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
JOSEPH ALEXANDER,)
) Plaintiff,)) v.) 1:26-cv-89)
SERGIO JIMENEZ and DAWN HILL-)
KEARSE,)
) Defendants.

ORDER

This matter is before the Court on the United States Magistrate Judge's Order and Recommendation ("Recommendation") to dismiss the case under 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim on which relief may be granted. The United States Magistrate Judge filed the Recommendation on March 25, 2026, Dkt. 3. The Clerk's office attempted to serve notice on the Plaintiff at the address on file, Dkt. 4; Minute Entry 3/25/2026, but the Postal Service returned the envelope containing the Recommendation, marked "return to sender," "insufficient address," and "unable to forward." Dkt.

5. Plaintiff has not provided an updated address to the Clerk, as is his obligation if he wishes to pursue his case. See L.R. 11.1(b). Moreover, no objections were filed within the requisite time limits. See 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(2). Therefore, the Court need not make a de novo determination, see 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3), and "must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note to 1983 amendment). After due consideration, the Magistrate Judge's Recommendation is hereby adopted in full. IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Dkt. 3), is ADOPTED. IT IS FURTHER ORDERED that this case is DISMISSED WITHOUT PREJUDICE under 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim on which relief may be granted. A Judgment dismissing this action will be entered contemporaneously with this Order. This the 18th day of May, 2026.

LINDSEY A. FREEMAN
UNITED STATES DISTRICT JUDGE