

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
NEW YORK

Peru McCarra v. Sheila Ann Sheridan, et al.

1:25-CV-0991 (GTS/TWD) · No. 1:25-CV-0991 (GTS/TWD) · Decided January 26, 2026

SUMMARY

The United States District Court for the Northern District of New York adopted a magistrate judge’s Report-Recommendation recommending sua sponte dismissal of Peru McCarra’s pro se complaint for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B). The court ordered dismissal with prejudice unless McCarra filed an amended complaint within thirty days addressing the identified pleading deficiencies, and noted that failure to provide an updated address or diligently prosecute could provide an alternative basis for dismissal.

CASE DETAILS

COURT	United States District Court for the Northern District of New York
WRITING FOR THE COURT	Glenn T. Suddaby
JURISDICTION	United States District Court for the Northern District of New York
DECIDED	January 26, 2026
DOCKET	1:25-CV-0991 (GTS/TWD)
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report-Recommendation recommending sua sponte dismissal of the pro se complaint for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B). No objection was filed.
STANDARD OF REVIEW	Clear-error review applies to portions of a magistrate judge's report-recommendation to which no specific objection is made.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- pleadings
- motions to dismiss
- civil procedure
- section 1983

PRACTICE AREAS

- civil procedure
- civil rights

QUESTIONS PRESENTED

1. Whether the court should accept and adopt the magistrate judge's Report-Recommendation when no objection was filed.
2. Whether the Complaint should be dismissed for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B), subject to an opportunity to amend.
3. Whether Plaintiff's failure to maintain an updated address or diligently prosecute the action would provide an alternative ground for dismissal.

HOLDINGS

1. When no objection is filed, the district court reviews the Report-Recommendation for clear error and may accept and adopt it if no clear error appears on the face of the record.
2. The Complaint was properly dismissed for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B), with an opportunity to amend and correct the pleading defects identified in the Report-Recommendation.
3. Plaintiff's continued failure to provide an updated address or otherwise obey the court's rules and diligently prosecute the action would constitute an alternative ground for dismissal under Federal Rule of Civil Procedure 41(b).

KEY QUOTATIONS

“When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review.”

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

FACTUAL BACKGROUND

The opinion provides few underlying factual details and states that Plaintiff brought a pro se action against forty named individuals. The court relied principally on the magistrate judge's Report-Recommendation, which identified pleading defects supporting dismissal for failure to state a claim.

PROCEDURAL HISTORY

Plaintiff filed a pro se action against forty named defendants. Magistrate Judge Thérèse Wiley Dancks recommended dismissal with leave to amend. After Plaintiff failed to object, District Judge Glenn T. Suddaby conducted clear-error review, adopted the Report-Recommendation, and conditionally dismissed the Complaint with prejudice unless Plaintiff filed a curative amended complaint within thirty days.

DISPOSITION

dismissed

CASES CITED

- Batista v. Walker, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995)

OPINION

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

PERU McCARRA, Plaintiff, 1:25-CV-0991 v.
(GTS/TWD) SHEILA ANN SHERIDAN, et al., Defendants.

APPEARANCES: PERU McCARRA Plaintiff,
Pro Se 20 Danker Avenue Albany, New York 12206 GLENN T. SUDDABY, United States District
Judge DECISION and ORDER Currently before the Court, in this pro se action filed by Peru
McCarra (“Plaintiff”) against forty named individuals (“Defendants”), is United States Magistrate
Judge Thérèse Wiley Dancks’ Report-Recommendation recommending that Plaintiff’s Complaint
be sua sponte dismissed with leave to amend for failure to state a claim pursuant to 28 U.S.C. §
1915(e)(2)(B).

(Dkt. No. 5.) Plaintiff has not filed an Objection to the Report-Recommendation, and the time in
which to do so has expired. (See generally Docket Sheet.) After carefully reviewing the relevant
papers herein, including Magistrate Judge Dancks’ thorough Report-Recommendation, the Court
can find no clear error in the Report-Recommendation:1 Magistrate Judge Dancks employed the
proper standards, accurately 1 When no objection is made to a report-recommendation, the Court
subjects that report-recommendation to only a clear error review.

Fed. R. Civ. P. 72(b), Advisory Committee recited the facts, and reasonably applied the law to
those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the
reasons stated therein. ACCORDINGLY, it is ORDERED that Magistrate Judge Dancks’ Report-
Recommendation (Dkt. No. 4) is ACCEPTED and ADOPTED in its entirety; and it is further
ORDERED that Plaintiff’s Complaint (Dkt.

No. 1) shall be DISMISSED with prejudice and without further Order of this Court, UNLESS,
within THIRTY (30) DAYS of the entry of this Decision and Order, Plaintiff files an Amended
Complaint that corrects the pleading defects identified in the Report-Recommendation; and it is
further ORDERED that, should Plaintiff file a timely Amended Complaint, that Amended
Complaint shall be returned to Magistrate Judge Dancks for her review; and it is further
ORDERED that, should Plaintiff continue to fail to provide the Court with an updated address as
required by N.D.N.Y.

Local Rule 10.1(c) (see Dkt. No. 5), his failure to obey the Court’s rules and/or failure to diligently
prosecute this action under Fed. R. Civ. P. 41(b) shall constitute an alternative ground for the
dismissal of his action. Dated: January 26, 2026 Syracuse, New York Glenn T. Suddaby; U.S.
District Judge Notes: 1983 Addition. When performing such a “clear error” review, “the court need

only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” /d.; see also *Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) (“I am permitted to adopt those sections of [a magistrate judge’s] report to which no specific objection is made, so long as those sections are not facially erroneous.”) (internal quotation marks omitted).