

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Whitney Shepard v. Elliot Ellinger, et al.

Shepard · No. 25-2254-DDC-TJJ · Decided January 30, 2026

SUMMARY

The United States District Court for the District of Kansas adopted a magistrate judge’s Report and Recommendation and remanded the case to the District Court of Wyandotte County, Kansas under 28 U.S.C. § 1447(c). The court also dismissed the plaintiff’s pending motion to remand as moot because the case was being remanded pursuant to the adopted recommendation.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	Daniel D. Crabtree
JURISDICTION	United States District Court for the District of Kansas
DECIDED	January 30, 2026
DOCKET	25-2254-DDC-TJJ
DISPOSITION	remanded
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report and Recommendation recommending remand after the plaintiff amended her complaint to add nondiverse defendants. No party filed a timely objection.
STANDARD OF REVIEW	In the absence of timely objections, the district court may review a magistrate judge's report and recommendation under any standard it deems appropriate; de novo review is required only for portions to which a party specifically objects.
PRECEDENTIAL VALUE	Nonprecedential district court memorandum and order
PARTIES	Whitney Shepard v. Elliot Ellinger, et al.

TOPICS

- subject matter jurisdiction
- civil procedure
- federalism

PRACTICE AREAS

- Civil procedure
- Federal jurisdiction
- Removal and remand

QUESTIONS PRESENTED

1. Whether the district court should accept, adopt, and affirm the magistrate judge's unobjected-to Report and Recommendation.
2. Whether the addition of nondiverse defendants eliminated diversity jurisdiction and required remand under 28 U.S.C. § 1447(c).
3. Whether plaintiff's pending motion to remand should be dismissed as moot after the court ordered remand.

HOLDINGS

1. When no party files a timely objection, the district court may review the magistrate judge's Report and Recommendation under any standard it deems appropriate and may accept, adopt, and affirm it.
2. The addition of nondiverse defendants eliminated diversity jurisdiction, requiring remand to the state court under 28 U.S.C. § 1447(c).

KEY QUOTATIONS

“In the absence of timely objection, the district court may review a magistrate’s report under any standard it deems appropriate.”

FACTUAL BACKGROUND

Plaintiff Whitney Shepard amended her complaint after receiving leave to add nondiverse defendants. The amendment eliminated diversity jurisdiction under 28 U.S.C. § 1332. The magistrate judge recommended remand to the District Court of Wyandotte County, Kansas, and no party objected to that recommendation.

PROCEDURAL HISTORY

The case was removed to the United States District Court for the District of Kansas. After the court granted plaintiff leave to amend and plaintiff added nondiverse defendants, Magistrate Judge Teresa J. James recommended remand to the District Court of Wyandotte County, Kansas. The parties received notice of the fourteen-day objection period under 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b)(2), but no party objected. The district court accepted, adopted, and affirmed the recommendation, remanded the case, and dismissed plaintiff's pending motion to remand as moot.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The case was remanded to the District Court of Wyandotte County, Kansas under 28 U.S.C. § 1447(c). Plaintiff's pending Motion to Remand was dismissed as moot.

CASES CITED

- Summers v. Utah, 927 F.2d 1165, 1167 (10th Cir. 1991)
- Garcia v. City of Albuquerque, 232 F.3d 760, 766-67 (10th Cir. 2000)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS WHITNEY SHEPARD, Plaintiff, Case No. 25-2254-DDC-TJJ v. ELLIOT ELLINGER, et al., Defendants. MEMORANDUM AND ORDER Before the court is United States Magistrate Judge Teresa J. James's Report and Recommendation (Doc. 41). Judge James recommends that the court remand this case to the District Court of Wyandotte County, Kansas.

Id. at 13. She explains that, having granted plaintiff Whitney Shepard leave to amend her Complaint and add non-diverse defendants, the court no longer has jurisdiction under 28 U.S.C. § 1332. Id.; see also Doc. 42 (Am. Compl.).

The parties received notice of their right to file an objection to the Report and Recommendation within 14 days of its service under 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(2). Doc. 41 at 1. The Report and Recommendation also explained that a party, to secure appellate review, must file any objections within the fourteen-day period. Id. The court issued the Report and Recommendation on October 14, 2025.

Id. No party has objected. Nor has any party sought an extension of time to file an objection. And so, the court now can accept, adopt, and affirm the Report and Recommendation. And it does so. See Summers v. Utah, 927 F.2d 1165, 1167 (10th Cir. 1991) ("In the absence of timely objection, the district court may review a magistrate's report under any standard it deems appropriate."); see also Garcia v. City of Albuquerque, 232 F.3d 760, 766–67 (10th Cir.

2000) (explaining under Fed. R. Civ. P. 72(b) a district court must make a de novo determination only for those portions of the report and recommendation to which a party specifically has objected). Having reviewed Judge James's Report and Recommendation (Doc. 41), the court determines that Judge James's analysis and conclusions are sound.

The court thus adopts Judge James's recommendation and remands this case to the District Court of Wyandotte County, Kansas under 28 U.S.C. § 1447(c). This adoption also moots plaintiff's pending Motion to Remand (Doc. 65). IT IS THEREFORE ORDERED BY THE COURT THAT the case be remanded to the District Court of Wyandotte County, Kansas under 28 U.S.C. § 1447(c).

AND IT IS FURTHER ORDERED BY THE COURT THAT the Report and Recommendation issued by United States Magistrate Judge Teresa J. James on October 14, 2025 (Doc. 41) is ACCEPTED, ADOPTED, and AFFIRMED. AND IT IS FURTHER ORDERED BY THE COURT THAT plaintiff's Motion to Remand (Doc. 65) is dismissed as moot. IT IS SO ORDERED. Dated

this 29th day of January, 2026, at Kansas City, Kansas. s/ Daniel D. Crabtree Daniel D. Crabtree
United States District Judge

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