

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
NORTH CAROLINA

**William Paul A. Byrd, Trustee, William Paul Alexander Byrd Trust v.
Navy Federal Credit Union, a federally chartered credit union, and
April Galey, employee/agent**

Byrd · No. 5:25-CV-551-FL · Decided March 3, 2026

SUMMARY

The United States District Court for the Eastern District of North Carolina reviews a magistrate judge’s recommendation concerning a pro se complaint alleging claims under criminal statutes, securities recordkeeping law, RICO, and the Uniform Commercial Code. The court dismisses the original complaint without prejudice, grants leave to amend, deems the amended in forma pauperis motion timely, and refers the amended complaint for further screening.

CASE DETAILS

COURT	United States District Court for the Eastern District of North Carolina
JURISDICTION	United States District Court for the Eastern District of North Carolina
DECIDED	March 3, 2026
DOCKET	5:25-CV-551-FL
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed a pro se complaint and an amended motion to proceed in forma pauperis after a magistrate judge recommended dismissal with prejudice under 28 U.S.C. § 1915(e). The plaintiff objected to the recommendation and moved for leave to amend.
STANDARD OF REVIEW	The district court reviews de novo the portions of a magistrate judge’s memorandum and recommendation to which specific objections are filed. It does not conduct de novo review of general and conclusory objections that fail to identify a specific error. The court may accept, reject, or modify the magistrate judge’s findings or recommendations in whole or in part.
PRECEDENTIAL VALUE	Unknown; district court order with no reporter citation or stated precedential designation.

TOPICS

pleadings

motion to amend

civil procedure

motions to dismiss

PRACTICE AREAS

civil procedure

federal civil litigation

pleadings

in forma pauperis screening

QUESTIONS PRESENTED

1. Whether the original complaint failed to state a claim for relief under the screening requirements of 28 U.S.C. § 1915(e).
2. Whether dismissal of the original complaint should be with prejudice or without prejudice to amendment.
3. Whether plaintiff should be granted leave to file the proposed amended complaint under Federal Rule of Civil Procedure 15(a)(2).
4. Whether plaintiff's amended motion to proceed in forma pauperis should be deemed timely and the amended complaint referred for renewed screening.

HOLDINGS

1. The original complaint failed to state a claim for relief because the criminal statutes cited by plaintiff did not create private rights of action, and the district court adopted that portion of the magistrate judge's recommendation.
2. Dismissal of the original complaint was without prejudice because plaintiff requested leave to amend to assert viable civil claims.
3. The motion for leave to file the proposed amended complaint was granted, and the clerk was directed to file and separately index the proposed amended complaint and attachments.

KEY QUOTATIONS

“The district court reviews de novo those portions of a magistrate judge’s M&R to which specific objections are filed.” (Discussion.A)

“Finding no clear error on careful review, the court ADOPTS this conclusion as its own and DISMISSES the original complaint.” (Discussion.B)

“However, where “[p]laintiff requests leave to amend to assert viable civil claims,” (id. at 1), the dismissal is WITHOUT PREJUDICE to amendment.” (Discussion.B)

FACTUAL BACKGROUND

The pro se plaintiff's original complaint alleged violations of several criminal statutes, a securities recordkeeping statute, the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(c), and various provisions of the Uniform Commercial Code. Plaintiff conceded that the criminal statutes cited in the complaint did not create private rights of action and sought leave to amend to plead viable civil claims based on the same factual events.

The proposed amended complaint asserted new causes of action and was submitted with the motion for leave to amend.

PROCEDURAL HISTORY

Plaintiff commenced the action on September 2, 2025, and later filed an amended in forma pauperis motion after receiving an order of deficiency and an extension of time. The complaint was referred for frivolity review, and Magistrate Judge Robert B. Jones, Jr. issued a memorandum and recommendation recommending dismissal with prejudice and denial of the in forma pauperis motion as moot. The district court found no clear error in the conclusion that the complaint failed to state a claim, dismissed the original complaint without prejudice, granted leave to amend, granted an additional extension of time, deemed the amended in forma pauperis motion timely, and referred the amended pleading back for screening.

DISPOSITION

other

REMAND INSTRUCTIONS

The clerk was directed to file and separately index the proposed amended complaint lodged at docket entry 12-1 and its attachments. The matter was referred again to the magistrate judge for resolution of the amended motion to proceed in forma pauperis and screening of the amended complaint under 28 U.S.C. § 1915(e).

CASES CITED

- Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982)

OPINION

Byrd
PER CURIAM.
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:25-CV-551-FL
WILLIAM PAUL A. BYRD, Trustee,) William Paul Alexander Byrd Trust,)) Plaintiff,)) v.)
ORDER
)
NAVY FEDERAL CREDIT UNION, a)
federally chartered credit union, and APRIL) GALEY, employee/agent,)) Defendants.) This
matter is before the court for review of plaintiff’s pro se complaint and amended motion to
proceed in forma pauperis pursuant to 28 U.S.C. § 1915(e). United States Magistrate Judge Robert
B. Jones, Jr. entered memorandum and recommendation (“M&R”), pursuant to 28 U.S.C. § 636(b)
(1) and Rule 72(b), wherein it is recommended plaintiff’s complaint be dismissed with prejudice

and motion to proceed in forma pauperis be denied as moot. (DE 10). Plaintiff filed objections to the M&R. Also pending before the court is plaintiff's motion for leave to file amended complaint pursuant to Federal Rule of Civil Procedure 15 (DE 12). In this posture, the issues raised are ripe for ruling. For the following reasons, the court adopts in part the M&R, dismisses plaintiff's original complaint without prejudice, and allows plaintiff's motion for leave to amend.

BACKGROUND

Plaintiff commenced this action September 2, 2025, with complaint and motion for leave to proceed in forma pauperis, which motion was not in the proper form for this district. Following the court's order of deficiency and extension of time to October 20, 2025, plaintiff filed amended motion for leave to proceed in forma pauperis October 31, 2025. The complaint and amended motion were referred to the magistrate judge for frivolity review. Plaintiff filed November 3, 2025, motion for additional extension of time to comply with the court's order of deficiency. This motion also was referred to the magistrate judge. Plaintiff's original complaint includes allegations of violations of several criminal statutes, a securities recordkeeping statute, the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962(c), and various sections of the Uniform Commercial Code.

DISCUSSION

A. Standard of Review The district court reviews de novo those portions of a magistrate judge's M&R to which specific objections are filed. 28 U.S.C. § 636(b). The court does not perform a de novo review where a party makes only "general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Upon careful review of the record, "the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). B. Analysis The magistrate judge recommends dismissal of the original complaint with prejudice for frivolity or, alternatively, for failure to state a plausible claim for relief. Plaintiff objects to the magistrate judge's conclusion that the factual allegations in the complaint are frivolous, arguing that such allegations are capable of proof. Plaintiff also objects to the magistrate judge's recommendation of dismissal with prejudice. Plaintiff does not object to the magistrate judge's determination that the original complaint fails to state a claim. Indeed, plaintiff concedes that the criminal statutes cited in his original complaint do not create private rights of action. (Obj. (DE 11) at 2). Finding no clear error on careful review, the court ADOPTS this conclusion as its own and DISMISSES the original complaint. However, where "[p]laintiff requests leave to amend to assert viable civil claims," (id. at 1), the dismissal is WITHOUT PREJUDICE to amendment. In the instant motion for leave to file amended complaint, plaintiff seeks to "cure deficiencies" in his original complaint "by pleading cognizable civil claims supported by the same factual events." (Mot. Amend (DE 12) 4 3). Attached to the instant motion is proposed amended complaint, alleging new causes of action. Where the "court should freely give leave [to amend] when justice so requires," Fed. R. Civ. P. 15(a)(2), plaintiffs

motion for leave to amend is ALLOWED, and the clerk is DIRECTED to file and separately index plaintiffs proposed amended complaint lodged at docket entry 12-1, along with its attachments. For good cause shown, plaintiff's motion for extension of time to comply with the court's deficiency order (DE 9) is GRANTED, and plaintiff's amended motion for leave to proceed in forma pauperis (DE 6) is DEEMED timely. Where plaintiff has filed an amended complaint and this matter remains subject to the screening requirements under 28 U.S.C. § 1915(e), the court REFERS the matter again to the magistrate judge for resolution of the amended motion to proceed in forma pauperis and for review of the amended complaint pursuant to § 1915(e). SO ORDERED, this the 3rd day of March, 2026. United States District Judge